Removal of independent directors

Why in news?

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- The ongoing boardroom tussle in the Tata Group has compelled the **SEBI to review the norms for removal of independent directors in listed companies.**
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What happened at the SEBI board meet?

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- SEBI took note of the fact that promoters by virtue of their majority holding in large listed companies can easily remove an independent director.
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- An internal note presented to the SEBI board stated that the regulator should evaluate the option of barring the promoters from voting on resolutions seeking removal of independent directors.
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- It is felt that the **present provisions make the removal process less stringent** than the appointment process. Therefore, since a special resolution is required for the re-appointment of an independent director, the same principle should be applied for his removal also.
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What is the current framework?

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- At present there is **no restriction on promoters to vote on such kind of resolutions** (seeking removal of independent directors).
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- The capital market regulator has brought this issue to the notice of Ministry of Corporate Affairs (MCA) as well, based on the letters it received from

Nusli Wadia who was removed as an independent director from Tata Group.
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- In one of his letters to SEBI, Mr. Wadia alleged that Tata Sons levelled false charges against him in the special notice sent to the shareholders of Tata companies in which he served as an independent director.
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- “In corporate India, freedom of independent directors is as important as independence of judiciary in our democracy,” said Vaneesa Agrawal of Suvan Law Advisors.
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- SEBI listing regulations and Companies Act, 2013 **needs to provide independent directors a fair process and the opportunity to debate their dismissal** before the non-promoter independent shareholders, currently it does not require legally sufficient cause for dismissal, or any similar test.
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- SEBI Chairman U.K. Sinha said recently that he does not see any “compelling reason” to review norms for independent directors at this juncture.
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Concluding remarks:

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- Meanwhile, the note presented to the board also stated that it would **not be right on SEBI’s part to question the commercial decisions of the boards of companies** unless there is any kind of violation of the securities laws.
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- The SEBI has, however, directed the stock exchanges to seek information from the companies on the allegations made by **Mr Cyrus Mistry.**
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- The companies were asked to place the allegations before their respective audit committee as per SEBI guidelines. Only, Tata Teleservices (Maharashtra) and Tata Capital Financial Services have responded.
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Source: The Hindu

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