



Study of Doctrine of Legitimate Expectation

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Abstract

Legitimate expectation was first used by the Supreme Court of England and Wales in *Schmidt vs. Secretary of State for Home Affairs*, which was the first time the term was used in a legal context. In this specific situation, the government had reduced the amount of time that a foreigner was authorised to enter and reside in England by a significant amount. The court concluded that the person had a real expectation of staying in England, which could not be violated without first completing a procedure that was fair and reasonable in all the circumstances of the situation. As an alternative to the word right, Lord DENNING used the phrase reasonable expectation to describe the situation. However, in the case of *Breen v. Amalgamated Engineering Union*, the notion of reasonable expectation was given a proper position in the law. Specifically, the “District Committee of a trade union had declined to approve a members election as shop steward in this particular instance. Although a person can be denied access to a privilege without being heard, the court found that in this case, the individual has something more than a mere privilege; he or she has a legitimate expectation that his or her election will be approved unless there is a compelling reason to deny access. As a result, the natural justice principles are applied to the case in order to ensure fairness”, the court concluded.

Key Words: legitimate, Expectation, Public Accountability etc

Introduction

Any kind of government can only be successful if the authorities maintain a constant line of communication with the general public. A person may be required to seek legal assistance if the result of such an engagement is not favourable. In administrative law, one such measure is the theory of legitimate expectation, which is used to get judicial review. When it comes to their government representatives, it is usual for individuals to have expectations of them. These expectations may be based on prior behaviour or promises made to them. As a consequence of the vested authority conferred by delegated legislation and judicial power, the authorities may



make a judgement that is contrary to public expectations and result in the loss of a benefit or advantage that the public has previously benefited from or enjoyed. As a result, the individual has standing to challenge the administrative decision on the basis of the notion of reasonable expectation, which is a legal theory. Because it instils a feeling of fairness and natural justice in their activities, it helps to ensure that the authorities do not misuse their power. Although this concept does not put a legal right on the individual, it does have the ability to hold the authority accountable if the imposed obligation is not carried out. The broader public is therefore protected from a policy decision that may have an effect on them as a result of this arrangement. The concept of reasonable expectation may be broken down into two categories: procedural expectations and substantive expectations. In particular, it is vital to stress that the implementation of natural justice principles in administrative law is inextricably linked to the expectation of receiving procedurally legal treatment. Because of a certain behaviour on the part of the authority figure, a person may reasonably anticipate to have a right to participate in a particular procedure. A substantive legitimate expectation, on the other hand, relates to a situation in which a person seeks a benefit as a consequence of a reasonable expectation that they had at the time of the occurrence. However, although the concepts and practises of the former are well-established in the vast majority of nations, the legal status of the latter is still up in the air.

Public Accountability

In the context of accountability, the practise of holding people or organisations responsible for their acts or inactions in the most unbiased way is defined as follows: Indias Indian Legislative Democracy is distinguished by the presence of elected legislatures that have oversight powers over the executive branch of government, as well as an independent judiciary with the ability to hold both the legislative and executive branches of government responsible for their actions. It is made up of a number of independent committees and commissions that are tasked with ensuring that various departments and agencies of the federal government are held accountable to the American people. It has been successful for more than 50 years that the election process, which is known as the ultimate accountability mechanism in a democratic society, has taken place. A federal system such as Indias is a two-way street in which public accountability entails both upward and downward responsibility at different levels. Upward accountability is achieved by governmental control over administrative authorities, such as the capacity to dissolve them, the approval of budgets, the auditing of budgets, and so on. Downward responsibility is to the general population, which is rather weak, and it is achieved mostly via



the exercise of their voting rights in elections. In India, there is a serious crisis in the area of public accountability. For the most part, formal accountability structures are put in place, but they are not always made to function well. However, despite the fact that many beneficial laws have been adopted, they are not always implemented or closely monitored. Public agencies are granted mandates and finances, but their performance may not be adequately reviewed, and appropriate action may not be taken to ensure that they are held responsible for their actions. Although public audits of financial statements and parliamentary evaluations are carried out, the follow-up activities may fall short of expectations. It is undeniable that the presence of formal procedures of accountability does not imply that practical responsibility is being exercised on the ground level. According to Indian legal rulings, the author of this research examines how this concept has developed. Following an examination of different Supreme Court rulings in this respect, the article focuses on corruption as the evil that impedes effective governance and public accountability in society. In addition, the paper examines the “Right to Information Act, which has assisted in holding public officials accountable for their actions. Finally, two recent cases, the Medical Council of India and the Commonwealth Games, are discussed, which demonstrate that much more needs to be done in India in order for public officials to be disciplined and for India to become a corruption-free and transparent nation.

Corruption- An Impediment in Transparency

Administrative corruption is an issue that is possibly as ancient as the institution of public administration itself. Government bureaucracy has grown enormously in terms of both size and scope, highlighting the need for effective public checks and controls on the administration of government. A significant increase in the size and number of bureaucrats has emerged as a consequence of the acceptance of social welfare state objectives in practically all emerging nations. In conjunction with the development of governmental responsibilities comes an increase in the amount of work in which administrative authority and discretion may be used. Abuse has the potential to occur in every scenario in which power and judgement are used by a person. As noted in its fourteenth report, the Law Commission of India observed that in India, there is a broad domain of administrative activity in which the bureaucracy may exercise discretionary power without being held accountable to the people or otherwise accountable in the event of an abuse of authority. In addition, there has been an increase in administrative adjudication. as seen by the fast expansion in the number of administrative tribunals in recent years. Inextricably linked to the issue of public accountability of administration are the issues



of executive discretion, delegation of legislation, and administrative adjudication. The Central Bureau of Investigation (CBI) is the most significant organisation in the country responsible for ensuring accountability. It was previously under the Executive that the hindrance to enforcing accountability in upper echelons of government was proving to be most problematic. The Supreme Court disassociated the CBI from the executive branch and placed its supervision in the hands of the Central Vigilance Commission (CVC). The Central Bureau of Investigation (CBI) no longer need prior consent from the government before investigating corruption charges. Additionally, the court issued a number of additional directives to strengthen the operation of the CBI and to make it the most effective organisation for enforcing transparency among government officials.

Right to Information as a Tool for Enforcing Public Accountability

The absence of public participation in the governance process is mostly due to a lack of awareness, which is a key contributing element to the situation. As the Supreme Court of India has stated, the demand for open government is based on the fact that democracy does not consist solely in people exercising their right to vote once every five years to choose their rulers and then returning to passivity and ceasing to show any interest in the government once the votes have been cast.

MCI and CWG Cases- Blot on Good Governance

India has always operated within the confines of corruption, and this has not changed. The Medical Council of India (MCI) scam and the organisation of the Commonwealth Games (CWG) in Delhi are two important incidents that have occurred recently that represent a blatant disregard for public accountability standards. These two incidents adequately demonstrate that corruption is deeply ingrained in Indian culture, and that it is imperative that public officials be held responsible for their actions. Dr Ketan Desai, the president of the Medical Council of India, and two other individuals were arrested in April 2010 for allegedly receiving a bribe of Rs 2 crore in exchange for granting recognition to a medical college in Punjab". The Medical Councils primary aims are the preservation of consistent standards in medical education and the recommendation of acceptance or de-recognition of medical credentials obtained from Indian or international medical schools. Such occurrences are plainly in violation of the MCI's mission, and the general public is being scammed as a result of these actions. It is essential that these public officials be held responsible for their actions and that the most severe penalty be



granted in order to ensure that such activities are never repeated, since public officials have no right to misuse their statutory power. According to several reports, the Commonwealth Events “(CWG) games, which are scheduled to take place in Delhi in October 2010, would likewise be marred by corruption and malpractice. The Central Vigilance Commission, CVC, said in its findings that the works were given at higher rates than expected, and that there was inadequate site management and quality compromises as well. The CVC also said that work” has been assigned to non-eligible entities and that there are inadequate quality assurance measures in place. Mistakes like this, as well as delays in planning, have resulted in the task costing the government more than 1000 times what was originally expected. The responsibility of the lack of “accountability on the part of the Organising Committee falls on the shoulders of the taxpayers. The government must take steps to guarantee that those in charge of organising the games are held responsible for the decisions they have made. These individuals have been granted total authority, and the adage power corrupts, and absolute power corrupts utterly is completely appropriate in this situation.

Conclusion

The concept of legitimate expectation is a judicial” invention that grants locus standi to a person who, despite the fact that he or she does not have a legal right, has a reasonable expectation that the relevant authority would act in a certain manner. The procedural part of the concept has a long history of development. The substantive part of the concept, on the other hand, is still in its early development phases. In the context of India, justifiable expectation may be viewed to have its roots in the principles of natural justice, which are encapsulated in Article 14 of the countrys constitutional framework. Rather than enhancing the theory, the Courts have established arbitrariness as the necessary bar for determining whether the denial of a valid expectation was justified in the first place. A interpretation like this has rendered the theory moot in India, where everything that violates the provisions of the Constitution is declared invalid by default. From the perspective of the Indian government, it is also vital to establish a test that will guarantee that the threshold is not set too high, so that the concept becomes superfluous. The doctrines status in the legal community would be further enhanced if the logic and test set out in Coughlam were followed.



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