

Immunity of Estoppel and Administration in suits: A Critical Study

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Abstract: The Doctrine Estoppel as has been defined in the Indian Evidence Act that ‘when one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.’ The doctrine of promissory estoppel is a doctrine of equity. This doctrine makes a promise irrevocable when the acceptor acts on the promise and irreversibly changes his position. The rationale behind this doctrine is that it is unfair if one party, acting on the promise of the other, does something to his detriment and receives no consideration because the promise is revoked. It is important to note that the doctrine of promissory estoppel cannot be invoked unreservedly keeping in mind factors such as rule of law and public interest. The essence of the doctrine of estoppel lies in the notion of equity. A wanton use of this doctrine would amount to rendering the government and its agencies ineffective, presenting a difficulty. Therefore, courts have laid down certain immunities to prevent the same which will be described in this project. This project will further analyze various cases which have brought out the principle of estoppel which will throw light on the administration in such suits.

Keywords: estoppel, equity, immunities, case analysis.

I. INTRODUCTION

The Doctrine Estoppel as has been defined in the Indian Evidence Act that ‘when one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.’ The doctrine of promissory estoppel is a doctrine of equity. This doctrine makes a promise irrevocable when the acceptor acts on the promise and irreversibly changes his position. The rationale behind this doctrine is that it is unfair if one party, acting on the promise of the other, does something to his detriment and receives no consideration because the promise is revoked. Estoppel cannot apply against the government, if it seeks to nullify a contract that is not in the prescribed form. Estoppel can however apply in case of statutory contracts or contracts by statutory bodies; as such contracts do not fall under the category of government contracts.

Statement of problem

This project will discuss about the grounds in which the principles of estoppel do not apply which will bring out the immunity aspect of such estoppel and the suits which follow.

Literature Survey

- There cannot be estoppel against statute
-HP Ranina
- The Doctrine of Promissory Estoppel
- Shreya Dave
- Halsbury's Laws of India (Administrative Law), 1stedn., 2010.

- Halsbury's Laws Of India (Estoppel and Waiver; Evidence), 1stedn., 2010.
- The Doctrine Promissory Estoppel- Application to the Government.
- Halsbury's Laws Of India (Bills of Exchange and other Negotiable Instruments; Business Associations (Partnerships)), 1st edn.,2009.

Objectives

- i. This is an attempt to bring out the conditions in which the doctrine of estoppel does not follow.
- ii. The project will also bring out the administration or effect in the administration due to the provision of such immunity.
- iii. This project will also bring out the analysis of various cases regarding the doctrine of estoppel.

Chapterisation

1. Background
2. Grounds of immunity of estoppel
3. Case Analysis
4. Significance of doctrine of estoppel in India
5. Conclusion
6. Bibliography

II. BACKGROUND

The Doctrine Estoppel as has been defined in the Indian Evidence Act that ‘when one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or

his representative, to deny the truth of that thing.' The doctrine of promissory estoppel is a doctrine of equity. This doctrine makes a promise irrevocable when the acceptor acts on the promise and irreversibly changes his position. The rationale behind this doctrine is that it is unfair if one party, acting on the promise of the other, does something to his detriment and receives no consideration because the promise is revoked.

*"Estoppel may be defined as disability whereby a party is precluded from alleging or proving in legal proceedings, that a fact is otherwise than it has been made to appear by the matter giving rise to that disability."*¹

The term "Estoppel," comes from an old-French word-"Estoupail" (or variation), which means "stopper plug", referring to placing a brake on the imbalance of the situation. The rationale behind estoppel is to prevent injustice owing to fraud or inconsistency.

In its simplest sense, doctrine of Estoppels, precludes a person from denying or to negate anything to the contrary of that which has been constituted as truth, either by his own actions, by his deeds or by his representations or by the acts of judicial or legislative officers. Estoppel is often described as a rule of evidence as indeed it may be so described. But the whole concept is more carefully viewed as a rule of substantive law.

To invoke the doctrine of estoppels, there are three conditions which must be satisfied;

1. Representation by a person to another
2. The other should have acted upon the said representation and
3. Such action should have been detrimental to the interests of the person to whom the representation has been made.

However in the case, "Gyarsi Bai vs. Dhansukh Lal,"² it was observed by the Hon'ble Apex Court that even if the first two conditions are fulfilled, but the third is not, then there is no scope to invoke the doctrine of estoppel.

It is important to note that the doctrine of promissory estoppel cannot be invoked unreservedly keeping in mind factors such as rule of law and public interest. The essence of the doctrine of estoppel lies in the notion of equity. A wanton use of this doctrine would amount to rendering the government and its agencies ineffective, presenting a difficulty. Therefore, courts have laid down certain immunities to prevent the same which will be described in this project.

Utilization of Doctrine of Promissory Estoppel to Government

The rule of promissory estoppel has furthermore been associated against the Government and the resistance considering official need has been totally negative. The Government is not exempted from commitment to do the representation made by it to its future conduct and it can't on

some ill-defined and undisclosed grounds of need or common sense disregard to do the ensure made, gravely by it. The Supreme Court has declined to make any capability between a private individual and open body so far as the fundamental of promissory estoppel is concerned. Regardless, if the insurance is for the advantage of the Government is illicit, against any statute or against open procedure the theme of promissory estoppel against Government does not have any noteworthy bearing. Thusly, the Government through its officers is bound by the regulation and can't summon any gatekeeper for their inaction, unless supported by statutory force. Statute powers an open commitment while the commitments constrained by a certification are owed by the Government not to individuals as a rule yet rather to private individuals. Along these lines estoppel does not have any kind of effect to inconsistency of a statute but instead applies to the break of an assurance by the Government.

Where the Government makes a certification knowing or implying that it would be caught up on by the promisee and, honestly, the promisee acting in reliance of it, changes his position, the Government will be held bound by the insurance and the assurance would be enforceable against the Government at the instance of the promisee, regardless of that there is no idea for the surety and the assurance is not recorded as a formal contract as required by Article 299 of the Constitution of India.

It is simple in a republic, spoke to by a standard of law, no one howsoever high or low, is absolved from the laws that apply to other people. Everyone is subjected to the law as totally and absolutely as some other and the Government is no uncommon case. It is point of fact the pride of set up vote based framework and the rule of law that the Government stays on the same equalization as a private individual so far as responsibility under the law is concerned. The Government can't promise resistance from the congruity of the standard of promissory estoppel and repudiate an insurance made by it on the ground that such ensure may chain its future authority movement.

Since the rule of promissory estoppel is a fair statute it must yield when the quality so requires. If it can be showed up by the Government that having perspective to the substances as they have thusly developed, it is low to the Government to conform to the certification made by it, the court would not bring a quality up for the assurance and maintain the it against the Government. The regulation of promissory estoppel will be evacuated is such a case since quality would not require the Government to be bound by the assurance. Right when the Government can exhibit that in light of the truths which have happened following to the certification being made, open side interest would be incomplete if the Government were required to finish the surety made, the court would need to modify individuals by and large eagerness for the Government doing the ensure made to an

¹HALSBURY (4th Ed, Vol. 16, para 1501, page1008).

²AIR 1965 SC 1055 3 (1876-77) LR 2 App Cas 439

inhabitant which has affected the local to change his position to his inclination and the all-inclusive community interest subject to persist if the Government were to do the ensure, and make sense of which way the quality untruths.

The regulation of estoppel can't be summoned for keeping the Government from acting in arrival of its commitments under the law. The fundamental of can't be associated in teeth of a guarantee or commitment constrained by the law. It can't be used to encourage the Government or even a private social event to do an exhibition blocked by law. There can be no promissory estoppel against the movement of definitive power. The representing body can never be obstructed from honing its legitimate limits by resort to the fundamental of promissory estoppel.

III. SIGNIFICANCE OF DOCTRINE OF ESTOPPEL IN INDIA

Use of Doctrine of Promissory Estoppel to Government

The principle of promissory estoppel has additionally been connected against the Government and the resistance taking into account official need has been completely negated. The Government is not exempted from obligation to do the representation made by it to its future behavior and it can't on some indistinct and undisclosed grounds of need or practicality neglect to do the guarantee made, gravely by it. The Supreme Court has declined to make any qualification between a private individual and open body so far as the tenet of promissory estoppel is concerned. In any case, if the guarantee is for the benefit of the Government is illegal, against any statute or against open strategy the topic of promissory estoppel against Government does not have any significant bearing. Along these lines, the Government through its officers is bound by the regulation and can't summon any guard for their inaction, unless sponsored by statutory power. Statute forces an open obligation while the obligations forced by a guarantee are owed by the Government not to people in general but rather to private people. In this way estoppel does not make a difference to contradiction of a statute but rather applies to the break of a guarantee by the Government.

Where the Government makes a guarantee knowing or meaning that it would be followed up on by the promisee and, truth be told, the promisee acting in dependence of it, modifies his position, the Government will be held bound by the guarantee and the guarantee would be enforceable against the Government at the case of the promisee, despite that there is no thought for the guarantee and the guarantee is not recorded as a formal contract as required by Article 299 of the Constitution of India.

It is rudimentary in a republic, represented by a standard of law, nobody howsoever high or low, is exempt from the laws that apply to everyone else. Everybody is subjected to the law as completely and totally as some other and the Government is no special case. It is without a doubt the pride of established vote based system and the principle of law that the Government remains on the same balance as a private individual so far as commitment under the law is

concerned. The Government can't guarantee resistance from the pertinence of the standard of promissory estoppel and renounce a guarantee made by it on the ground that such guarantee might chain its future official activity. Since the principle of promissory estoppel is an evenhanded precept it must yield when the value so requires. In the event that it can be appeared by the Government that having view to the realities as they have along these lines unfolded, it is unjust to the Government to comply with the guarantee made by it, the court would not bring a value up for the guarantee and uphold the it against the Government. The regulation of promissory estoppel will be uprooted is such a case since value would not require the Government to be bound by the guarantee. At the point when the Government can demonstrate that because of the truths which have happened ensuing to the guarantee being made, open hobby would be partial if the Government were required to complete the guarantee made, the court would need to adjust people in general enthusiasm for the Government doing the guarantee made to a resident which has incited the native to change his position to his bias and the general population intrigue liable to endure if the Government were to do the guarantee, and figure out which way the value lies.

The regulation of estoppel can't be summoned for keeping the Government from acting in release of its obligations under the law. The tenet of can't be connected in teeth of a commitment or obligation forced by the law. It can't be utilized to urge the Government or even a private gathering to do a demonstration precluded by law. There can be no promissory estoppel against the activity of authoritative force. The governing body can never be blocked from practicing its authoritative capacities by resort to the tenet of promissory estoppel.

Centrality of the precept of promissory estoppel in India

Today we are living in reality as we know it where a guarantee of Government to any national or non-resident matters a great deal particularly in the event that it is done in a contractual or business exchange. At the point when a man depends on the Government's guarantee and contributes hard earned cash and the Government a short time later does not comply with its guarantee then it makes a position where the individual's speculation is in risk and he gets to be vulnerable and incapacitated. The legal in India has assumed an exceptionally huge part in making the State dependable and responsible and made it comply with its guarantee.

IV. CASE ANALYSIS

Promissory estoppel is a generally new advancement. With a specific end goal to follow the advancement of the precept in England, we have to allude to a percentage of the English choices. The early cases did not discuss this regulation as estoppel. They talked about it as 'raising value'. Ruler Cairns expressed the tenet in its soonest shape in the accompanying words in *Hughes v. Metropolitan Railway Company*³:

"It is the main standard whereupon all courts of value continue, that if parties who have gone into clear and particular terms including certain lawful results a while later

³[1877] 2 A.C. 439

by their own demonstration or with their own assent enter upon a course of arrangement which has the impact of driving one of the gatherings to assume that the strict rights emerging under the agreement won't be authorized, or will be kept in tension, or held in temporary hold, the individual who generally may have implemented those rights won't be permitted to uphold them where it would be discriminatory having respect to the dealings which have along these lines occurred between the gatherings."

This standard of value showed up however it was just in 1947 that it was restated as a perceived principle by Lord Denning in *Central London Properties Ltd. v. High Trees House Ltd.*⁴, who stated:

"A guarantee expected to be tying, planned to be followed up on, and truth be told followed up on is tying."

In the developmental period the regulation of promissory estoppel couldn't be conjured by the promisee unless he had endured "weakness" or 'bias'. All that is required is that the gathering affirming the estoppel more likely than not followed up on the certification given by him. The change of position by the gathering is the main basic necessity of the regulation.

In India, there are two stages in the development of the use of this tenet; pre-Anglo Afghan case and post-Anglo Afghan case. Before this case, the position was that promissory estoppel did not make a difference against the Government. Be that as it may, the position adjusted with this case. In *Union of India v. Old English Afghan Agencies*, the Government of India declared certain concessions as to the import of certain crude materials so as to support fare of woolen pieces of clothing to Afghanistan. In this way, just halfway concessions and not full concessions were reached out as declared. The Supreme Court held that the Government was estopped by its guarantee. From that point the courts have connected the convention of promissory estoppel even against the Government. Essential characteristics to make promise binding on Government.

The teaching of estoppel does not make a difference to statutes. At the end of the day, a man who creates an impression with regards to the presence of the procurements of a statute is not estopped, along these lines, from battling that the statutory procurement is unique in relation to what he has already expressed. A man may not speak to the genuine status of a statute or law, yet the other individual who depends on such a representation is at freedom to discover the position of law on the matter and as the adage says, lack of awareness of law is no reason. So a man cannot take plan of action to the resistance of estoppel to argue that a false representation has been made with respect to the procurements of a statute or law. The standards of estoppel cannot override the procurements of a statute. Where a statute forces an obligation by positive activity, estoppel cannot avoid it. The convention can't likewise be conjured to keep the authoritative and official organs of the Government from performing their obligations.

In *Jit Ram Shiv Kumar v. Condition of Haryana*, a district conceded exception from octroi for adding to a mandi, however along these lines is denied the exclusion. Later it

again conceded the exclusion with regards to the terms of the first offer of plots, however imposed duties once more. Indeed, even in this way, a case of estoppel against its authoritative force was not permitted.

So is the situation with the expense laws. On the off chance that the law requires that a specific expense gathered, it can't be surrendered, and any certifications by the Government that the charges would not be gathered would not tie the Government, when it gathers the assessments. Along these lines it was held that when there was an unmistakable and unambiguous procurement of law that qualifies the offended party for an alleviation, no inquiry of estoppel emerges.

The accompanying conditions have been set down as important to summon the adage of 'No estoppel against a statute':

- The gatherings should respectively consent to contract independent of statutory procurements of the relevant Act.
- The assertion went into by the gatherings must be explicitly disallowed by the Act.
- The procurement of law must be made for open hobby and not relate to a specific class of persons.
- The assertion of the gatherings ought not have been converted into a request of the court which by the behavior of the gatherings had been discouraged from performing its statutory commitments.

An understanding into legal conduct further shows that estoppel can't be connected against the Government on the off chance that it imperils the established forces of Government. For the situation of *C. Sankaranarayanan v. Condition of Kerala*, the court dismisses the conflict of estoppel and held that the force gave by the Constitution can't be reduced by any assention.

The court additionally did not permit the request of estoppel against the Government in the event that it had the impact of canceling any procurement of the Constitution. In *Mulamchand v. Condition of Madhya Pradesh*, the Supreme Court did not have any significant bearing estoppel against the Government in instances of agreements not went into as per the structure recommended in Article 299 of the Constitution. The court held that if the estoppel is permitted it would mean the annulment of a vital established procurement, planned for the insurance of the overall population.

The instance of *Motilal Padampat Sugar Mills v. Condition of U.P.* is an innovator with respect to the utilization of the principle of promissory estoppel against the Government. For this situation the Chief Secretary of the Government gave an absolute confirmation that aggregate exception from deals expense would be given for a long time to all new mechanical units all together them to set up themselves immovably. Following up on this certification the appealing party sugar factories set up a hydrogenation plant by raising an immense credit. In this manner, the Government changed its strategy and reported that business charge exclusion will be given at different rates more than three years. The litigant fought that they set up the plant and raised tremendous credits just because of the certification given by the Government. The Supreme Court held that the Government

⁴[1947] K.B. 130

was bound by its guarantee and was subject to absolved the appellants from deals charge for a time of three years initiating from the date of creation.

In *State of Rajasthan v. Mahavir Oil Mills*, another industry was set up on the premise of a motivating force plan from the Government wherein it guaranteed a few advantages. The Supreme Court held that the State Government was bound by its guarantee held out in such circumstance. Be that as it may, it doesn't block the State Government from pulling back the plan tentatively. It could pull back the plan notwithstanding amid its continuation, if open intrigue so requires. Regardless of the possibility that the gathering has adjusted his position, if because of supervening circumstances open interest requires the withdrawal of advantages, the advantages can be pulled back or changed. The supervening open hobby would beat promissory estoppel.

Further, in *Century Spinning and Manufacturing Co. v. Ulhasnagar Municipality*, the district consented to absolved certain existent mechanical worries in the zone from octroi obligation for a time of seven years. In any case, later on it tried to force obligation. This was tested and the Supreme Court, while remanding the case to the High Court, held that where the private party had followed up on the representation of an open power, it could be authorized against the power on the grounds of value in suitable cases despite the fact that the representation did not bring about an agreement inferable from the absence of legitimate structure.

Be that as it may, the instance of *Jit Ram Shiv Kumar v. Condition of Haryana*, cast a shadow on the Motilal situation where it was held that the teaching of promissory estoppel is not accessible against the activity of official elements of the State. The Supreme Court in *Union of India v. Godfrey Phillips India Ltd.* before long evacuated this uncertainty. The court held that the law set down in Motilal case speaks to the right law on promissory estoppel.

There is another purpose of interest judgment given by the Supreme Court in *Express Newspaper Pvt. Ltd. v. Union of India* wherein the fundamental was used to hinder the Government from repressing the movement of a minister for support of a lease as it was within the degree of his energy to yield such approval. Thusly the distortion on power was checked. Nevertheless, if there is bending by the social occasion itself to gain the certification then the State is not bound by the promissory estoppel as held in *Central Airmen Selection Board v. Surender Kumar*. The court said that a man, who has himself beguiled the force by advancing a fake expression, couldn't summon this standard, if his mutilation cheated the force into taking a decision, which on revelation of the perplexity is hoped to be wiped out.

V. CONCLUSION

All in all, it can be said that if the Government of India or of any State in India makes a guarantee to any individual and the guarantee is not conflicting with the tradition that must be adhered to and is not against open interest, then a short time later it can't decline to keep its guarantee. The Supreme Court of India has said that following up on the certification or representations are sufficient and subsequent disadvantage, harm or partiality brought on is not to be demonstrated. It is likewise unimportant whether such representation was entirely or mostly in charge of such adjustment in the position. The Supreme Court has rightly watched that the idea of drawback now is not simply money related misfortune but rather whether it seems shameful. It is unjust that the promisor ought to be permitted to resile from the affirmation or representation having respect to what the promisee has done or avoided doing in dependence on the certification or representation. Consequently, one can depend on the legitimate guarantee of the Government of India and can securely follow up on the same in light of the fact that the rule that everyone must follow arrives to ensure the natives.

