
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

CONTRACTUAL LIABILITY OF STATE IN INDIA- Milind Saraswat & Abhilasha¹**ABSTRACT**

The paper examines the contractual liability of state in context to Indian laws. This concept upholds two major words, namely Contractual which means "agreed in a contract" and liability "the state of being legally responsible for something." In modern development, government contracts are playing a significant character. The horizon of the government workings is escalating with time, including numerous economic and social developments. With the idea of a welfare state in the modern epoch, government contracts are augmenting. The term "Government contract" as it speaks includes government as either of the party to the contract.

These government contracts are drawn by the name of the President of India, Governor, or any person who performs the contract on their behalf. However, they practice certain immunity which will be discussed in the paper. Government brings about voluminous contracts daily as they govern numerous public sector companies and other relevant functions. With the widening of governmental abilities and powers in the requisite time, a certain shift has been perceived from the "officers' liability" to "State liability".

With this, the paper also emphasis on pivotal role of judiciary in maintaining the free and just trial without any prejudice numerous other roles. The paper includes the present applicability of the concept with relevant suggestions.

Keywords: Contractual liability, Government Contracts, Judiciary, Contract, Constitution, Authorities etc.

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INTRODUCTION

Backing into 19th century, the historical foundation of modern contract law came into existence. It was first asserted that the origin of obligation in the contract is the convergence of the will of the parties to the contract. In the eon of global development, contracts are the *sine qua non* of commercial activities which are of utmost importance in the present era. Various natures of agreements are formed keeping the groundwork the same for all. The contract simply means an agreement between the two parties along with the consensus; more precisely it is defined in the Indian Contract Act 1872, where the interpretation clause i.e., 2(h) states that an agreement is a contract executable by law.

Expanding the horizon of parties, in some contract states is too recognized as one of the contractual parties and such contracts are termed as Government contracts. The welfare state dispenses numerous benefits involving more inclination of private organizations and enterprises towards governmental contracts, jobs, and other relatable fields. Such economic and business participation may put the state in a situation of acting arbitrarily; thereof government contracts gained constitutional recognition determining the state liability to conserve the interest of an individual. The constitution makes the union and the states as juristic persons capable of making contracts, carrying business, trade, and defending a legal action for the same as that of private individuals.

The Article 298 of The Constitution of India, 1950 declares such power of the government to carry on trade and creation of contracts for any purpose. The language of Article 300 in the Indian Constitution expresses such ability of government to make contracts, where all the government contracts are made in the name of the union of India' in case of Government of India and by the Name of State or the Legislature of the state' in case of Government of state on behalf of the president or the Governor respectively. The question regarding enforceability of the contract or liability for the breach revolves around the provision of Article 299 which keeps immense importance as if a contract is not in compliance with Article 299(1) would be no contract at all. It is incorporated to safeguard the general public as well as the government from any form of unauthorized contracts. Authorities are subject to the mode and manner as provided by Article 299 for these government contracts otherwise the state will be held liable for compensating the other party.

At times, contracts include all other aspects of the "contract" but the facet of compliance of Article 299 was not observed in some cases, therefore the applicability of other legislations

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including Section 70, Indian Contract Act, 1872 which deals with the obligations & liability of a state which is same as that of in a normal contract. Such accountability of a person occurs when he/she enjoys the benefit of a non-gratuitous act, making the latter bound to make compensation to the former. Section 70 of Contract act, 1872 aims to avoid unjust enrichment at the cost of another either being the government or the opposite party. It permits the contractual party to recover the benefits provided.

Judiciary plays a requisite role in the factors of government contracts as they are subject to judicial review. To keep away the unauthorized practices and safeguard the interests of the individual, judicial review is important. The ambit of judicial review is also restricted at places where the procedure is duly followed. Judiciary cannot review the contractual terms. The paper further exhibits the scope of judicial power via respective case laws defining the extent to which the state meets up its contractual liability in the present phase of India and other duties, obligations, etc, concerning such liability.

Concept of contractual liability & its position in India,

This concept upholds 2 major words, namely Contractual which means "agreed in a contract" and liability "the state of being legally responsible for something." In modern development, government contracts are playing a significant character. The horizon of the government workings is escalating with time, including numerous economic and social developments. With the idea of a welfare state in the modern epoch, government contracts are augmenting. Before looking into the Genesis of these contractual liabilities of the state, let us highlight the concept of the contract. A contract is an agreement that is made or enacted between 2 or more parties and is enforceable by the law. The description of the term "contract" is explained in Section 2(h) of The Indian Contract Act. Here, these parties can be any person, individual, company, organization, or government. All the agreements which are enforceable under the law and do not impact the legal provision negatively are coined as contracts.

The term "Government contract" as it speaks includes government as either of the party to the contract. Both the central government as well as State government can act as a party in the contract. These government contracts are drawn by the name of the President of India, Governor, or any person who performs the contract on their behalf. However, they practice certain immunity which will be discussed later in the paper. Government brings about

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voluminous contracts daily as they govern numerous public sector companies and other relevant functions. With the widening of governmental abilities and powers in the requisite time, a certain shift has been perceived from the "officer's liability" to "State liability".

The liability of the State was acknowledged way before the emergence of constitutional law and Contract law. At the time of the East India Company's rule in our boundaries, the concept of state liability or government liability also existed. The British government was not exercising absolute immunity concerning laws promulgated in India. Regular trials took place in the home country for any irregularities or liabilities which arose at the time of commencement of laws in India. Also, this liability of government was recognized in numerous statutes and required provisions were enacted, namely the Government of India Act 1833, 1858, 1915 & 1935(2).

This notion of contractual liability of state gained more recognition after the formation of the Constitution. Article 294, 298, 299 & 300 deal with the important provisions of the above concept.

The Article 294 promulgates that all the assets and properties which were vested with the Dominion of India or princely state or province before the formation of the Constitution became vested in the Union and all its cognate states. Article 298 provides power to the government for executing the actions & functions of the state by entering contracts. Then Article 299 is the most important addition to the Constitution with respect to the functioning of the government contracts. It describes about the elementary formalities which are required to fulfill by the State to configure the government contracts. Article 299(1) describes 3 main conditions which are required to be fulfilled for the contracts made in controlling the executive powers of the centre or state. The conditions are: -

1. All the contracts shall be expressly made by the President or by the governor of the state, as the required case maybe.
2. The execution of all government contracts shall be made on behalf of The President or the governor, with accordance to the case requirements.
3. The third person if included should execute the case in a way the President or the governor may authorize and sanction.

This provision act as a safeguard of the state with the liability of unauthorized contracts. It was said in the case of "*Chaturbhuj vithaldas jasoni v. Moreshwar Parashram*"² the above constitutional provision was not just added for mere sake, but to protect the government against

² AIR 1954 SC 236: 1954 SCR 817

all the unauthorized and illegitimate contracts. Likewise, in the matter of "*karamshi jethabhai Somayya v. State of Bombay*³" the observation was made that the appellant entered a contract with the minister of PWD without communicating the contract with the name of the governor hence the contract was declared void. Also, the above Article was included in the Constitution to harbour the general public as they are represented by the state. Except for being a mere directory, the terms of the above Article were held to be of a mandatory nature.

In the case of *K P Chaudhary v. State of Madhya Pradesh*⁴ it was observed that concerning Article 299(1) government and another person cannot enforce any implied contract because the above-stated Article is being under "mandatory terms". The contract between both the government and the other party must be in full compliance with (Article 299) otherwise deemed void.

The term "Expressed" in Article 299(1) was highlighted in the case "*Union of India v. A. L. Rallia Ram*"⁵ was examined stating "no formal document needs to be executed". In contrast, the view was highlighted by the Patna High Court in the case of "*Chandra Dhan v. State of Bihar*"⁶. So, the Article 299 proclaims that all government contracts must be drawn expressly in the name of the president or the governor, however in clause 2 states that there should be no personal liability of both concerning any contract or assurance as they individually don't form any contract.

It is also pivotal to acknowledge that contract should be executed by an authorized person who is appointed by either the president or the governor, depending on the circumstances. In the instance of "*State of Bihar v. Karam Chand Thapar & Bros. Ltd*"⁷ " It was established that if specific authorization is absent, the implied authorization may be considered as important compliance with this requirement of Article 299(1). As it was established in the case that, although the executive officer was not specifically authorized to do the work but was impliedly authorized on an ad-hoc basis. Additionally, in the lawsuit of "*Union of India v. N. K (P) Ltd.*"⁸ observed that in case the president or the governor whatever the case may be, does not sign the contract, then it will be considered as void ab initio.

Now the important question arises that whether an agreement that does not satisfy the prerequisites of Article 299(1) can be ratified by the state or not? In "*State of Bihar v. Karam*

³ AIR 1964 SC 1714: (1964) 6 SCR 984,

⁴ AIR 1967 SC 203: (1966) 3 SCR 919

⁵ AIR 1963 SC 1685: (1964) 3 SCR 164"

⁶ AIR 1976 Pat 15

⁷ AIR 1962 SC IIO: (1962) I SCR 827

⁸ (1973) 3 SCC 388: AIR 1972 SC 915"

*Chand Thapar Bros Limited*⁹" It was observed that if the contracts were made by an unauthorized person, it could be counterbalanced by the state particularly, when it was for their self-interest. However, in *Mulamchand v. State of M. P.*¹⁰the opposing decision was given which illustrated that if the contract does not comply with the requirements of the Article 299(1) then government cannot rectify the contract. Although, if the parties mutually decide to rectify then it shall be allowed.

It was also held in the case that there is no question of Estoppel against the government if it seeks to nullify the contract which is not prescribed by Article 299.

However, it is be noted that Article 299 does not apply to a statutory contract. There is a distinction between executive powers and statutory powers - "*BC Gowda v. the State of Mysore*,¹¹"

The Article 299(2) provides immunity to the president, the governor, and the person authorized on their behalf against the personal liability which may arise because of non-performance of the contract. However, this does not imply that the government cannot be held responsible for its negligence as this would violate the principles of natural justice and hamper the other party to the contract. The liability on the state will be the same as in the case of the ideal contract described under the Indian Contract Act 1872. The state will be helped equally responsible for breach of contract and will be liable for adequate remedy/compensation to the aggrieved party.

Also, if it has been observed that the government has taken the undue influence of the contract from other party, then they will be held responsible for giving compensation to other parties under the Section 70 of the Indian Contract Act 1872. This situation will be termed under quasi-contract and generally, it was implemented to protect the interest/loss of the other party.

Under the Article 70 of the Indian Contract Act, 3 major conditions are provided, that is: -

1. Something lawful should be done or delivered to another person.
2. There should not be any gratuitous intention behind the act done.
3. The person for whom this act has been done or delivered should enjoy requisite from such act.

This concept was embraced to curb the non-compliance of Article 299 in petty contractual cases by either party. Also, if any individual derives benefit out of government, by entering the government contract then he or she will also be liable for compensation under the Section 70 of

⁹ AIR 1962 SC 110

¹⁰ AIR 1968 SC 1218: (1968) 3 SCR 214

¹¹ AIR 1974 Kant 135

the Indian Contract Act 1872. In case, the government has made any void contract with the party then they have the right to recover benefits that were provided by them in the process of proceedings under the Article 65 of Indian Contract Act.

It was held in "*State of Assam v. Keshab Prasad Singh*,¹²" that for the validity of Government contracts, only Article 299 does not satisfy the requirement rather Section 10 of the Indian contract must also be fulfilled which highlights the essentials of a valid contract. Also, to ascertain the quantum of damages contained in Section 73, 74, and 75 of the Indian contract act are appropriate on government contracts - "*Thawardas Pherumal v. Union of India*,¹³ However, it is to be noted that all provisions of Contract Act 1872, are enforceable on government contracts. With this, we understand that both the provisions of constitutional law and the Contract Act go hand in hand to exercise government contracts that are subjected to certain limitations and exceptions.

Briefly let us examine the position of Contractual liability of State in Britain as well.

Britain: - The crown, before 1947 followed absolute sovereignty, and none of the rulers was sued for any negligence caused by the contract. In the earlier king rule and days of feudalism, the king could not be sued in his court. Also, it was the common mindset and popular saying that "the king can do no wrong". However, after the introduction of The Crown Proceedings Act 1947, the rule of the crown cannot be sued was repealed. Cases against the crown in ordinary court were now enforceable against contractual liability.

PRINCIPLES CONCERNING CONTRACTUAL LIABILITY OF STATE

1. **Reasonableness and fairness:** - It is particularly important to understand that every decision which is taken by the government should be reasonable and fair without any biases or against the principles of natural justice. The Article 14 of the Indian Constitution also highlights the equality and non-arbitrariness in decision making, which obliges the state to attract to act prudently. Every state action whether exercised by the authority of law or executive power must be reasonable and just. While making a government contract the focus on both the parties should be that absolute fairness and Unbiasedness should prevail among them. In the case of "*Y. Konda Reddy v. State of A.*

¹² AIR 1953 SC 30: 1953 SCR 865

¹³ AIR 1955 SC 468: (1955) 2 SCR 48.

P.¹⁴ It was perceived that like in all the activities of state righteousness and reasonableness is abided, actions related to Contractual periphery should also be equitable and just. Also, in "*Hindustan Sugar Mills v. State of Rajasthan*"¹⁵ It was said that "where there is a rule of law in democratic governance, the state has to do what is fair and just to its citizens. The state should work in fairness and justice demand should be met of each citizen.

2. **Public Interest:** - it is of most significant importance. Every public authority has to work in favour of the public at large and fulfill their interest as a whole. No sense of business should prevail from the side of the State in maintaining any form of contract and other interests as well. In "*State v. P. C. Mishra*"¹⁶ The observation was made that any individual who is holding the public office should mandatorily exercise their strength for public welfare and interests at substantial.
3. **Contractual Liability:** - State should meet up its contractual liability in a fair manner. Article 299 (2) vaccinates the president and the governor against personal liability but obliges the state to compensation or necessary remedies in case of any inadequacy or hindrance is caused to another party (prescribed in Section 70 of the Indian contract act). This important aspect of the principle has been elaborated above.

THE AWARD OF CONTRACTS

In modern development, the government started dispensing award of contracts, Licensing, etc to the public in general. Earlier it was the discretion of the government in awarding the contract to anybody they preferred voluntarily. Even courts granted the power to the government in the late 90s to freely enter the contract with anyone they liked as the contract between parties is a private deed. In "*GE & E Company v. Chief Engineer*,"¹⁷ The high court of Kerala said, " It is the open decision of the government to choose a person of their liking to fulfill the contract which they desired to perform as it is to a private party ". This somewhere entitled the government to infringe the right of equal opportunity to parallel holders as a monopoly in decision is flourished. Keeping the same thing in mind, judicial attitude towards the above initiative went through a modification. It was considered that although the contracts are a private partnership state represents the whole territory and they cannot enjoy the same freedom

¹⁴ AIR 1977 AP 121

¹⁵ AIR 1981 SC 1681

¹⁶ 1995 Supp (4) SCC 139

¹⁷ AIR 1974 Ker 23

as private individuals as they are also subjected to rule of law in their activities.

Courts acknowledged the fact that some healthy standards and norms should be amended which does not hamper the other equally opportunity seekers. This earlier act also infringed the individual right of equality (Article 14) which is subjected to writ petitions. The state should be just and fair while providing opportunities to the public at large.

Keeping all these things acknowledged, the leading case of *Ramana Dayaram Shetty v. International Airport Authority*¹⁸, few guidelines and principles were established for awarding contracts by the executive authority. They said that all these awards will be subjected to Article 14th of the Indian Constitution, hence government needs to dispense these awards arbitrarily and fairly. The government cannot relax such standards towards one specific person of their choice rather others should be equally notified about the contract or tender. Also, the rules of selection by the government for providing such awards should be non-discriminatory, fair, and reasonable. A similar decision was also provided in *FCI V. Kamdhenu cattle Feed Industries*¹⁹. Also, it was observed in *Tata Cellular v. Union of India*²⁰ that principles of Article 14th of the Constitution need to be taken of primary care while accepting or refusing the tender.

A due notice including all the information about the tender must be released in public and equal opportunity must be provided by every individual who is associated with such operations so that conformity could prevail. This concept of the award of contract has taken a well-structured shape currently with numerous amendments and changes in the course of time by the judicial authorities. Also, laws are amended frequently to protect the rights of individuals in case of any unjust steps by the government.

Role of Judiciary

Whenever a contract is made, it is considered that the process should carry out in a just and fair manner without any prejudice. In case, any party in these government contracts does not fulfill the required conditions of agreement then such a contract may subject to judicial review. The process of judicial review is executed to maintain fairness, transparency and avoid inequitable practices which are exercised by the government or their executives. Judiciary ensures that the interest of the contracting party is protected. The sphere of judicial review and power of the judiciary in setting aside the decision of the government is a pivotal factor when it comes to

¹⁸ AIR 1979 SC 1628: (1979) 3 SCC 489

¹⁹ AIR 1993 SC 1601: (1993) 1 SCC 71

²⁰ AIR 1996 SC at 25,

government contracts.

Judiciary can review all prescribed cases relating to the state as a party, however, they cannot review the confidential terms and conditions which are entered by the authority of government in the agreement. However, if the contract does not contain any prejudice or arbitrariness, the court does not have the power to purposely review the case. In the instance of "*Tata Cellular v. Union of India*²¹" It was observed that freedom should be given to the government to enter in any form of agreement, which is done in fairness and is free from any kind of arbitration. In "*Tata Cellular v. Union of India*²²" some of the grounds wherein the statutory actions can be put in the periphery of judicial review were established: -

1. Any form of irrationality.
2. Any procedural impropriety Or
3. Any illegality.

These are not comprehensive grounds, can be changed or new grounds can be implemented for judicial review. If some loopholes are detected while reviewing the contract terms, the government or the other party will be held liable for compensation according to Section 70 of the Indian contract act 1872.

The power of judicial review cannot be repudiated, even in contractual matters or where the government exercises its contractual powers.²³ Another aspect is about the issue of writs in the matter of contracts. When we talk about contracts, the relations inter se between the contracting parties are not governed under any constitutional law rather by the contract act which ascertains the rights and obligations of parties engaged. The breach of any contract comes under the periphery of private wrong, and therefore the required remedy should not be under writ jurisdiction but in civil court. It is stated that in case the terms of the contract are violated ordinarily writs are not the appropriate remedy.

In "*State of Punjab v. Balbir Singh*²⁴" the Supreme Court showcased that the High court does not exercise any jurisdiction in enforcing the liability which arises due to common conditions agreed in the contract between parties, in a writ lawsuit under Article 226 of the Indian Constitution. Also, in "*DFO v. Biswanath Tea Company*²⁵" the Supreme Court said that the party cannot claim compensation under Article 226 against the contractual agreement. Proper

²¹ 1996, AIR 11,1994 SCC (6) 651

²² AIR 1996 SC 11: (1994) 6 SCC 651

²³ Reliance Airport Developers (P) Limited v. Airports Authority of India, (2006) 10 SCC 1: (2006) 10 JT 424

²⁴ AIR 1977 SC 1717

²⁵ AIR 1981 SC 1368

relief to the party can be sought in Civil Court.

However, if the government takes any arbitrary decision while acting in pursuance of a contract, then the issue can fall under the ambit of writ jurisdiction because it is the sole responsibility of the state to act reasonably, concerning contract as well.²⁶ wherever any statutory element is recognized into a contract, a writ can be issuable. The writ can only be issued in such matters where characteristics of public law are involved along with the contractual relationship like in the case of "*DFO v. Ram sanehi*,²⁷" where the writ petition was maintainable even if the right to remedy emerged out of the breach of contract, wherein, the action asserted was of the public authority vested with statutory power.

Lastly, it is established mostly the writ proceedings are not maintainable in the case of government contracts, but whenever some public law element is involved in the contractual relationship between the government and other parties the writ can be maintainable. Also, these contractual obligations between state and individual are subjected to judicial review to protect the rights of either party and promote fairness and reasonableness.

With this even if in some cases the element of public law is highlighted between the parties, it may also be subjected to judicial review. However, the extent of judicial power is somewhere limited, but they exercise adequate control when it comes to the judicial review subjugated to some exceptions. This act is a substantial tool to investigate the arbitrariness of government, but the judiciary cannot exercise these rights whenever they want because it infringes the right of state concerning entering the contract.

Present Applicability & Problems with Contractual liability

The present intricacy of the pandemic has caused a major influence on Government contracts. Already few companies and institutions have been strained to shut down due to global lockdown. This time is considered the worst recession of history where most of the countries are struggling to strengthen their economy. All the prior contracts between state and individuals are experiencing an unforeseen situation where it is becoming strenuous for them to live up to the terms of contracts. Every sector of the economy is facing an acute shortage of finances and other resources. At this time, we must re-boost our economy to a good extent and the government is working hard in achieving such objectives. But in these hardships, the rising concern among contractual parties was to meet the terms of the agreement in the allotted time.

²⁶ Gujarat State Financial Corporation v. Lotus Hotels Private Limited, AIR 1983 SC 848

²⁷ AIR 1973 SC 205

And due to countless problems in these sectors companies started invoking the provisions of "Force Majeure", also known as "Act of God". This clause deals with unnatural events like earthquakes, tsunami, war, and other problems. This clause helps in exempting the parties from continuing or performing the contract and exonerate them from liabilities and penalties towards each other. This doctrine act as a remedy to the parties in case of any unforeseen or unnatural situation occurs. But the necessary condition to use this clause is when the force majeure is of such nature that the performance of the contract was impossible between the parties otherwise it won't be applicable.

Due to this pandemic and lockdown, it was extremely difficult to fulfill the needs of the contract and hence many companies including the government evoked the clause of force majeure to get saved from unwanted liabilities. Like the highest importer of gas in India has used the clause of force majeure with their Qatar gas agreement, saying because of low demand the storage tanks were already occupied and no other source was present to store the extra kilos. Also, the largest container terminal which is notably owned by the state has refused to pay any penalties to customers due to late deliveries and other problems because of lockdown and used the same clause as their defence.

It is pivotal to understand that to boost our economy government needs to provide some concession and leeway to Individuals and private players so that they can re-start their business and fulfill the signed terms. The problem of contractual liability is arising due to these tough situations, as private players and government both are unable to function properly. The government is undergoing a massive financial crisis because the major portion of the government finance is spending on medical and healthcare facilities plus providing required needs to survivors. It is becoming difficult for both parties to meet their terms and pay the liabilities.

However not in every prospect this principle can act as a Saviour, in the famous case of energy *watchdog v. Cerc*, Adani power tried to take remedy of force majeure clause but was unsuccessful, In 2017 they won the bid to supply the electricity in Haryana thinking the prices of electricity payable won't increase in mere future but suddenly the price of coal escalated in Indonesia, which never happened in last 40 years due to this they wanted to revoke the contract with the state and applied in Supreme Court with the defence of force majeure clause. Later the court held that they should have known about the price rise earlier and this is no excuse hence the plea was rejected.

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The problem with the applicability of the above clause is that it can be enforceable when the parties have mentioned the force majeure doctrine in the terms of a contract, which is very unlikely among the contracts which were made before 2020. However, even if the clause wasn't mentioned in the terms, the parties can rely on Section 56 of the Indian Contract Act 1872, concerning about frustration of the contract in the current pandemic situation. This Section will safeguard the party from the liabilities and call for the termination of the contract if all the causes of invocation can be proved in front of the court precisely.

Suggestions and Conclusion

Thus, after reviewing every aspect of contractual liability it is to be observed that government contracts are the same as normal contracts which are governed by the principles of The Indian Constitution & The Indian Contract Act 1872 combined. With the fast-expanding economy, the scope of government contracts is increasing. Laws are being amended with the requisites, helping in curtailing the arbitrariness and promoting fairness among the parties to such contracts. Both at central as well state-level executive authorities are adhering to the rules of Article 299 and 300 of the Constitution for validating the contract with the private players and individuals. Only when the provisions of these Articles are complied completely, the contract becomes valid and doable. Although the contracts are being made with the name of the president, the governor, or the person appointed by them yet they exercise immunity as they are not involved in the contracts directly. In case of any misappropriation or discontentment in the terms, the power is given to both the parties for claiming the compensation by either of them and if not the remedy of judicial review is upheld by the judicial body. Although, there is the provision of writ petition, when the contract is violating Article 14 of the Indian Constitution. However, the courts recognized these contracts as private deeds and writs are not maintainable in every situation only when the element of public law or infringement of principles of the right to equality is involved. Either party can also seek remedy under Section 70 of Contract Act 1872, in case of any violation of terms or non-payment of liability. It is very crucial to understand that the contracts are carried out in a just and reasonable way as well as principles of contractual liability should be duly followed, no sense of arbitrariness should prevail while executing the contract otherwise it would result in gross violation of the principle of natural justice.

Judiciary also plays a significant role in regularizing the terms between the parties and make

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sure that no transgression occurs. They exercise the power of judicial review in all such cases where any irregularities are caused by either party to contract. However, they cannot exercise this power anytime they want as it may affect the government's right to freely oblige the contract. With this, they also acknowledged the fact that while awarding the contract certain limitations were required to enact so that every opportunity seeker can get the opportunity of receiving the tender and their right to equality to stay intact. Earlier this situation created a sense of monopoly in the decision-making of the executive authorities as they provided the contracts to whomsoever they liked or acknowledged. But later numerous laws were implemented with time to provide equal opportunity to all by the judicial body.

Presently, the structure and functioning of government contracts have taken a new shape. They have started inviting more private players from the markets in contractual agreements and the fear of misappropriation from the side of the state has somewhat dwindled. People have started participating more in government proposals as the sense of trust has significantly strengthened. But due to the catastrophic pandemic situation, many companies have lost their business and the government is also undergoing financial crisis for the reason that they are unable to meet the liability timely and are invoking the principle of force majeure - "Act of God" to escape from the Liabilities and performance of the contract. This doctrine act as a remedy against the contractual liability of state as well as individual entities. Now it is to be observed that whether the court will allow the exception of force majeure as a defence in payment of liabilities of contracts affected in lockdown or not.

To amplify our economic conditions sense of generosity and cooperation must be prevailed between government and private parties. No doubt the government is taking some remarkable steps to overcome the financial burden without the liabilities getting affected yet some limitations can arise which should be neglected by the other party and alongside individuals are also overburdened by the loss caused to their business in this plight, which should also be considered in case they are tardy in meeting the terms of the specific contract. Also, according to the analysis, the initial research hypothesis turns out that the extent of government's power in every state is "to carry out any business or acquisition of their choice which is adhering through the rules of prescribed laws in the Constitution and contract act, also from any contract for that matter".



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