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Doctrine of Promissory Estoppel – An Analysis

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ABSTRACT

This research paper is on the analysis of promissory estoppel in India. It also focuses on the law of England on this doctrine. It focuses on how far this doctrine has been developed in India. This paper also gives a basic distinction between estoppel and promissory estoppel. The paper lays down the conditions under which this doctrine is to be applied and also focuses on the exception of this doctrine of promissory estoppel.

I. INTRODUCTION

The doctrine of promissory estoppel implies that when a person with the intention of making a lawful relationship makes a promise to another person and that other person acts upon the promise then that promise becomes an obligation on the person making it. He cannot deny such promise. He has to perform it without any neglect. In order to apply the doctrine it is not necessary that the promisee must suffer damage. It is enough that he has changed his dependence position on the assurance of the promise. Just like individuals the government can also enter into contracts with the individual and make promise to the individual. The government also cannot go back from the promise once made.

The doctrine of estoppel is specified in the Indian Evidence Act, 1872. Section 115 states 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 thing².

Thus the doctrine of promissory estoppel is based on fair play, justice, equity and good conscience.

- **Conditions for Application of Doctrine**

1. There should be a promise from one person to another person.
2. The promise should be made as such the other person believes it.
3. The other person believing on it should have relied on that promise.

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² Indian Evidence Act, 1872 S. 115 No.1, Acts of Parliament (India)

4. By relying on the promise the other person should have acted upon it.
5. The person relying should suffer loss or damage by such reliance.

II. DOCTRINE OF PROMISSORY ESTOPPEL IN ENGLAND:

Promissory estoppel concerns certain circumstances where a party to a contract promises something which is different from the original terms of the contract and where the other party to the contract alters his/her behaviour in reliance on that promise. In such situations, English law will prevent the former party from enforcing the original terms of the contract. The doctrine has some promises binding even when they are not supported by consideration.

Hughes v. Metropolitan Railway Company, (1877) 2 AC 439

In this case the landlord gave the tenant 6 months period for repairing the property and if not done it will risk in forfeiture. There was a lease negotiation opened between landlord and tenant during 6 months. Yet there was a failure in the lease negotiation after 6 months and also the tenant failed to repair the property. The landlord sought to enforce the forfeiture. Lord Cairns held that the landlord had made the tenant to believe by his conduct that forfeiture will not be enforced and therefore the landlord cannot set back from his promise.³

Central London Property Trust Ltd v. High Trees House Ltd, [1947] KB 130

In this case, the landlord agreed to receive half of the rents from the tenants due to difficulty in finding tenants during the war time. After the war the flats became occupied fully and the landlord demanded from the tenants the outstanding arrears during war time. Lord Denning stated that the promise once made by the promisor by knowing that such promise would be acted upon by the person on whom it is made is enforceable despite of lack of consideration. Therefore the landlord cannot demand for outstanding arrears during war time. The landlord can claim full rent only from the period after war.⁴

Robertson v. Minister of Pensions, (1949) 1 KB 227

In this case, one R, an army officer claimed a disablement pension on account of war injury. The war office accepted his disability as attributable to military service. Relying on this assurance R did not take any steps which otherwise he would have taken to support his claim. The ministry thereafter refused to grant the pension. The court held the ministry liable. According to Lord Denning, the crown cannot escape by saying that estoppels do not bind the

³ <https://lawprof.co/contract/promissory-estoppel-cases/hughes-v-metropolitan-railway-co-1877-2-app-cas-439/>

⁴ https://casebrief.fandom.com/wiki/Central_London_Property_Trust_Ltd._v_High_Trees_House_Ltd.

crown for that the doctrine has long been exploded.⁵

III. DEVELOPMENT OF DOCTRINE OF PROMISSORY ESTOPPEL IN INDIA

There are three phases in the development of the doctrine:

- The position before Anglo-Afghan (Phase I)
- The position after Anglo-Afghan (Phase II)
- The position after Motilal Padampat case. (Phase III)

POSITION BEFORE ANGLO-AFGHAN CASE – (PHASE I):-

The judiciary took consistently the opinion that no estoppel would apply against the Government in matter of operation of statute.

Amar Singh v. State of Rajasthan, AIR 1955 SC 504

The SC refused to apply the estoppel against the government in this case. The facts of the case are: the collector gave an assurance that the jagir of the petitioner would not be acquired during her lifetime under the Rajasthan Land Reforms Act, 1952. Later the government initiated resumption proceedings against the petitioner. The petitioner argued that the government was estopped from going back on the assurance made. Refusing to accept the plea of the petitioner the SC stated that the assurance would not bind the government because its powers of resumption are regulated by the statute and must be exercised in accordance with its provisions. The act confers no authority on the government of grant exemption from resumption and an undertaking not to resume will be invalid and there can be no estoppel against a statute.⁶

Mathra Pd. & Sons v. State of Punjab, AIR 1962 SC 745

The SC stated that if a law required that a certain tax be collected, it cannot be given up and any assurance that it would not be collected would not bind the state government whenever it chose to collect it.⁷

POSITION AFTER ANGLO AFGHAN CASE – (PHASE II):-

Union of India v. Anglo (Indo) – Afghan Agencies Ltd, AIR 1968 SC 718

The Supreme Court applied promissory estoppel against the government on equitable grounds. The Central Government notified in the Gazette an export promotion scheme under

⁵ https://learninglink.oup.com/static/5c0e79ef50eddf00160f35ad/casebook_133.htm

⁶ <https://indiankanon.org/doc/1132805/>

⁷ <https://indiankanon.org/doc/522452/>

which an exporter of woolen textiles and goods was to be entitled to import raw materials equal to 100% of the FOB value of goods. In the instant case, the exporter claimed to have exported goods worth 5 lakhs of rupees. The textile commissioner issued to him an export entitlement of only 1.99 lakhs. He did not give any opportunity of hearing to the exporter. The exporter challenged the order of the textile commissioner. The Central Government resisted the exporters claim by arguing that the scheme was merely administrative in nature and therefore created no rights in the exporter and cast no obligation on the government to issue the import license to him. The court refused the plea and thus quashed the order of the textile commissioner and held the exporter to be entitled to an import certificate for the total amount of exports actually made. The Anglo – Afghan case depicted a new judicial trend.⁸

S.K.G Sugar Ltd. v. State of Bihar, AIR 1975 Pat 123

In this case, the excise commissioner gave assurance to the petitioner that he would be paid at the rate of 42 paise per L.P. liter for supplies made by him. The Patna High Court held that the petitioner could enforce the claim against the state for the supplies made. It was stated that the courts did have power in appropriate cases to compel performance of the obligations imposed on departmental authorities by executive orders, when they find that any person had acted to his detriment on solemn promises made by the authorities concerned.⁹

POSITION AFTER MOTILAL PADAMPAT CASE – (PHASE III):-

Motilal Padampat Sugar Mills v. State of Uttar Pradesh, AIR 1979 SC 621

The UP Government gave an assurance through a statement published in the newspaper, and also individually to the petitioners, that new industrial units in the state would be exempt from sales tax for a period of three years to enable them to find firm footing in the development stage. Later the Government retracted its assurance and sought to impose sales tax on the petitioners. This was challenged through a writ petition. The SC held that the government was bound by the promise or assurance given by it to the petitioners on the ground of equity. The Government had made a categorical representation knowing or intending that it would be acted upon by the appellants and since they did act upon the representation and altered their position, the factual basis for setting up the doctrine of promissory estoppel was present and the government was bound to make good the representation made by it. The court conceded the promissory estoppel could not be invoked

⁸ <https://indiankanoon.org/doc/1882267/>

⁹ <https://indiankanoon.org/doc/110265/>

to compel the government to do any act prohibited by law.¹⁰

Bhim Singh v. State of Haryana, AIR 1980 SC 768

The doctrine of promissory estoppel was expounded in Motilal Padampat was straightway reiterated and applied in this case. The State Government held out certain specific promises as inducement for its employees to move into a newly created department. The SC ruled that the employees having believed the representations by the State Government and having acted thereon, could not be denied the rights and benefits promised to them.¹¹

IV. DIFFERENCE BETWEEN ESTOPPEL AND PROMISSORY ESTOPPEL:

S.NO	ESTOPPEL	PROMISSORY ESTOPPEL
1	Representation is made based on an existing fact.	Representation is made based on future intention.
2	It is supported by consideration of parties.	Not supported by consideration of parties but by future conduct of parties.
3	Indian evidence act deals with estoppel under section 115 to 117	There is no provision for promissory estoppel under evidence act.
4	It has been dealt under law of tort.	It is been dealt under law of contract.

V. EXCEPTIONS ON THE DOCTRINE OF PROMISSORY ESTOPPEL:-

- 1.) This doctrine of estoppel does not apply to statutes. A person cannot take recourse to the defence to plead that a false representation has been made regarding the provisions of the statute. Where a statute imposes positive duty, estoppel cannot prevent it.
- 2.) The doctrine cannot be applied to prevent the government from acting in discharge of its functions. It cannot be used to compel the government to do act which is prohibited by law. The doctrine cannot be applied if it jeopardizes the constitutional powers of the government.
- 3.) The doctrine does not apply against the exercise of legislative power. The legislature cannot be precluded from exercising its legislative functions by resort to the doctrine.

Mulamchand v. State of Madhya Pradesh, 1968 AIR 1218

The court did not apply the doctrine of promissory estoppel for contracts which did not comply the requisites of Article 299 of the Constitution of India. If estoppel is allowed it

¹⁰ <https://indiankanoon.org/doc/871220/>

¹¹ <https://indiankanoon.org/doc/5429/>

would mean a repulsion of essential constitutional provisions available for the general public.¹²

VI. CONCLUSION:

From the above it is clear that doctrine of estoppel is based on justice, equity and good conscience. It requires a man to keep his word. It prohibits from playing “hide and seek” or “fast and loose”. In short in estoppel truth is immaterial and equity prevails over it. Thus if the Government or State makes any promise and if it is not inconsistent with the laws of the statute or not inconsistent with public interest, then it cannot be refused afterwards it should be followed.

The Supreme Court plays a major and significant role in this doctrine in making the state responsible and accountable to its promise. The SC has said that acting on the assurance is enough and there is no need for loss or damage to occur. Hence the persons in India can act freely on the promises made by the Government since there is the law of the land to protect its people.

¹² <https://indiankanoon.org/doc/948679/>