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**DOCTRINE OF LEGITIMATE EXPECTATION IN ADMINISTRATIVE ACTION:
RECENT TRENDS**

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DOCTRINE OF LEGITIMATE EXPECTATION & ADMINISTRATIVE ACTION: RECENT TRENDS

Manoj Kumar*

Abstract

Fairness in government transactions is the cornerstone of the idea of legitimate expectations. It becomes relevant if a public entity gives someone the impression that they will receive a real benefit. A person may be entitled to legal protection if his "expectation" is protected and guarded by a public body while exercising its administrative discretion. As of the date, there is no definition of the term "Legitimate Expectation"; The idea of a genuine expectation has now become sufficiently significant in administrative law. The concept of "Legitimate Expectation" is the most recent addition to the lengthy list of ideas developed by the Courts for the review of administrative actions, and it joins the ranks of ideas like natural justice, unreasonableness, etc.

In this paper, the author has discussed contemporary and recent trends associated with the doctrine of Legitimate Expectation. The work sheds light on the recent legal developments that have taken place, considering the Agniveer Scheme as well as recent case laws.

Keywords: Administration; Good Governance, Legitimate Expectation, Promissory Estoppel, Principle of Fairness.

INTRODUCTION

Due to a past history of consistent behavior or an express promise made by the relevant authority, a person may have a valid expectation that they will be treated in a certain way by administrative authorities. According to this idea, a public authority may be held responsible even if there is no reasonable expectation. Given

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this, the concept of "Legitimate Expectation" refers to a person's engagement with a public figure¹.

What is an acceptable expectation? It is obviously not a legal right. It is a hope for a benefit, alleviation, or treatment that might typically follow from a promise or a long-standing custom. 'Established practice' refers to a routine, predictable, and certain behaviour, method, or activity of the decision-making authority. The expectation must be fair, rational, and valid in order to be legitimate. Any expectation that is absurd, illogical, or invalid cannot be a genuine expectation if it is founded on occasional, casual, or random acts. As it is not a right, it cannot be enforced in that capacity. For the purpose of judicial review of administrative action, courts created this idea. It is procedural in nature because a higher standard of justice in administrative action is required as a result of the promise made or the established practice².

It might be argued that this ideology serves as a form of administrative authority check as a result. In essence, the idea of a valid expectation places responsibility on public authority to act appropriately by considering all relevant factors related to such a legitimate expectation when a representation has been made. Furthermore, it requires public authorities to refrain from doing anything that goes against legitimate expectations unless there is a strong public policy rationale for doing so.

The Doctrine of Legitimate Expectation is a legal principle that has evolved in administrative and constitutional law. It is a concept that seeks to protect the expectations and rights of individuals or entities when dealing with administrative authorities or public bodies. The doctrine is rooted in the principles of fairness, justice, and the rule of law.

Here are the key components and explanations of the Doctrine of Legitimate Expectation:

- **Legitimate Expectation:** A legitimate expectation arises when an individual or entity reasonably expects a certain outcome or benefit from a public authority based on the authority's past actions, representations, or established practices. This expectation must be reasonable and founded on clear and unambiguous promises, policies, or practices of the administrative authority.

¹ HWR Wade, *Administrative Law*, 522 (Oxford University Press 6th ed., 1961)

² I.P. Massey, *Administrative Law*, 355 (Eastern Book Company, 9th ed., 2017).

- **Protecting Expectations:** The doctrine aims to protect these legitimate expectations by preventing public authorities from arbitrarily or unfairly changing their policies, practices, or decisions when individuals or entities have relied on them to their detriment.

There have been three types of Legitimate Expectations which are as follows:

- a. Procedural Expectations:** This type of expectation arises when an individual or entity expects that a particular procedure or process will be followed by a public authority before making a decision that affects their rights or interests. For example, if an authority has a consistent practice of holding public hearings before making certain decisions, individuals may have a legitimate expectation of a hearing.
- b. Substantive Expectations:** Substantive expectations pertain to the expected outcome or decision itself. If a public authority has consistently granted a particular benefit or license under certain circumstances, individuals or entities may have a legitimate expectation of receiving that benefit or license if they meet the same conditions.
- c. Promissory Expectations:** Promissory expectations arise when a public authority makes a clear and specific promise or assurance to an individual or entity, and that promise creates a legitimate expectation that the authority will fulfil it.

While the doctrine protects legitimate expectations, it is not an absolute rule. Courts often perform a balancing act between protecting these expectations and allowing public authorities flexibility to change policies or practices when there are valid reasons, such as public interest, legal obligations, or changed circumstances.

If a legitimate expectation is found to be breached, individuals or entities may seek legal remedies, which can include judicial review, compensation, or an order for the public authority to honour the expectation³.

A claimant may have a legitimate expectation if one of the following conditions is true: the promise was made in writing by a public official; the practice has been ongoing for some time, and the expectation must be reasonable; or both. Every reasonable anticipation is a pertinent aspect that needs to be given proper consideration in a process of fair decision-making. It is a matter of fact in each instance as to whether the claimant's expectation is reasonable or legitimate given the circumstances. When the issue comes up, it must be decided not based on the

³ A. K. Srivastava "Doctrine of Legitimate Expectation" *Judicial Training & Research Institute Journal* (1995)

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claimant's perception but rather in the greater public interest, where other factors may take precedence over what would otherwise have been the claimant's legitimate expectation. A legitimate judgment made by the public authority in this way would meet the criteria for non-arbitrariness and withstand court review.

Expectation and anticipation cannot be synonymous. It is distinct from a need, want, or hope, and it differs from making a demand or a claim based on a legal claim. No matter how sincere and true a wish, desire, or hope may be, and no matter how firmly one may expect them to be fulfilled, they alone cannot amount to an expectation that may be expressed, and a simple letdown is not susceptible to legal consequences. It is not enough to qualify as a valid anticipation even if it arises from a sincere hope. As a result, the legitimacy of a claim's foundation must be established through citation to a law, a tradition, or a predetermined method that is observed in a regular and natural system.

Another instance of this doctrine's use involved a government notification of the locations to which the slum project would be extended. However, the notification was later changed, and several places that had previously been included were removed. The court ruled that it is an obvious violation of the principle of natural justice when a notification is issued rescinding the earlier notifications without consulting the parties who were impacted. People who live in an area that was subsequently excluded from the previous notification had genuine expectations, and such expectations cannot be disregarded without fair hearing.

Doctrine of Legitimate Expectation and Natural Justice

It is impossible to understand the Doctrine of Legitimate Expectation in isolation because it is a component of the Doctrine of Natural Justice. According to Article 14 of the Indian Constitution, which includes non-arbitrariness as a key component, all governmental activities must be in compliance. No government or its agents may use unrestricted discretion in matters of public law, and a public authority may make use of such discretion for the benefit of the general welfare.

In the matter of *Food Corporation of India v. M/s Kamdhenu Cattlefield Industries*⁴, the Supreme Court of India made the following observations: -

“The requirement of giving a legitimate expectation due consideration is part of the principle of non-arbitrariness, a necessary component of the rule of law. The mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to

⁴ (1993) 1 SCC 71.

consider and give due weight to it may render the decision arbitrary. Every reasonable anticipation is a pertinent aspect that needs to be given proper consideration in a process of fair decision-making”.

It is a matter of fact in each instance as to whether the claimant's expectation is reasonable or legitimate given the circumstances. Whenever the issue comes up, it must be decided based on the greater public interest rather than the claimant's viewpoint, as there may be other factors that are more significant than what the claimant may otherwise have a right to expect. A legitimate judgment made by the public authority in this way would meet the criteria for non-arbitrariness and withstand court review. The rule of law is assimilated by the notion of legitimate expectation, which functions in our legal system in this way and to this extent.

International authorities on the notion of justifiable expectation can be found in the case of *Attorney General for New South Wales v. Quinn*⁵. The Court held that “to strike down the exercise of administrative power solely on the ground of avoiding the disappointment of a person's legitimate expectations would be to cast the Courts adrift on a featureless sea of pragmatism.” Furthermore, the idea of a legitimate expectation (not equal to a legal right) is too vague to serve as a justification for disqualifying the exercise of a power when doing so would otherwise be legal.

In the case of *Hindustan Development Corporation and others v. Union of India and others*⁶, the Supreme Court of India made the following observations regarding this matter:

"If a denial of legitimate expectation in a given case amounts to denial of a right guaranteed or is arbitrary, discriminatory, unfair or biased, gross abuse of power or violation of principles of natural justice, the same can be questioned on the well-known grounds attracting Article 14 but a claim based on mere legitimate expectation. It may be one of the factors taken into account, but the judge must look behind the curtain to determine whether the judgment violates these standards and necessitates intervention. Because speculation and ambiguity are inherent in the idea of legitimate expectation, it follows that it is "not the key which

⁵ [1990] HCA 21.

⁶ 1994 AIR 988, 1993 SCR (3) 128

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unlocks the treasury of natural justice and it ought not to unlock the gates which shut the court out of review on the merits⁷."

Evolution of the Doctrine of Legitimate Expectation

The idea is not a distinct legal privilege enshrined in a specific statute or code of conduct. In the case of *Council of Civil Service Unions and Others v. Minister for the Civil Service*⁸, it was first attempted to establish the doctrine's tenets that a decision made by a public authority should have an impact on a person such that:

- His rights or obligations are altered, which are enforceable by or against him;
- He is denied a benefit or advantage that he had previously been granted by the authorizing body and which he could have retained;

In the first and leading case of *Schmidt v. Secretary of State for Home Affairs*⁹, it was held that a foreigner who had been granted permission to enter the United Kingdom had the right to be heard and a legitimate expectation of being allowed to stay for the permitted period of time. The Court discusses how this case marked the introduction of the doctrine of legitimate expectations into English law.

The Court then discusses the well-known case of *A.G. of Hong Kong v. Ng Yuen Shiu*¹⁰, in which Lord Fraser made the famous observation that if a public authority promises to follow a procedure, it must act fairly and keep its word in the interest of good administration. The Supreme Court's notion of legitimate expectation lacks definition and application, the Court observes, and from this point forward it would want to go into further detail. The Court makes a distinction between expectation and anticipation and holds that an expectation may only be deemed to be lawful if it is supported by a practice or custom that has been observed consistently or has legal sanction.

This decision can be seen as a turning point in Indian debate since it states unequivocally that it does not include a "crystallized right" and does not permit a direct petition for relief, thus defining the doctrine's scope. The notion may instead be restricted to the right to a fair trial in situations when a promise has been broken or rejected. A substantial expectation does not immediately translate into an

⁷ Sudhanshu Ranjan, *Justice, Judocracy and Democracy in India: Boundaries and Breaches*, 53 (Routledge, 1st ed., 2016).

⁸ (1985] AC 374).

⁹ (1969) 2 Ch. 149).

¹⁰ (1983) 2 A.C. 629.

absolute right unless the decision-maker can show that the public interest outweighs the withdrawal; additionally, such a decision must be founded on arbitrariness, unreasonableness, and not being adopted in the public interest.

The Court further declared that when a case concerns a policy issue or a change in policy, the courts must remain within their authority and refrain from getting involved. Therefore, reasonable expectations might lead to judicial review, but the Court's capacity to provide relief is severely circumscribed.

In some common law countries like the UK and India, the doctrine of legitimate expectation is a legal theory primarily related to administrative and constitutional law. In the US, it is not a doctrine that is frequently accepted or used.

According to the idea of legitimate expectation, people have a right to anticipate public officials to act in a certain way or make choices based on accepted practices, prior decisions, or statements made by those officials. Public authorities may be compelled to uphold a valid expectation when making choices that impact people's rights or interests, even if doing so requires deviating from the established norms or procedures¹¹.

The idea of a legitimate expectation, however, is not as widely accepted or as formally acknowledged in the United States as it is in some other nations. Instead, the American legal system favors emphasizing the concepts of due process, legislative and regulatory obligations, and the Constitutional protection of individual rights. Although there may be circumstances when people have reasonable expectations about how government entities would behave, these expectations are normally assessed within the context of current laws, regulations, and constitutional safeguards rather than as a distinct theory.

Position of Doctrine of Legitimate Expectations in India

In the case of *State of Kerala v. K.G. Madhavan Pillai*¹², the doctrine of legitimate expectation was first explored in the Indian context by the Supreme Court. In this case, the respondents were given a punishment that required them to modernize their current schools and build a new aided school, but 15 days later, an order was made that kept the earlier sanction in place. The respondents contested this Order on the grounds that it was against principles of natural justice. The Supreme Court held that the second order breached principles of natural justice and the sanction

¹¹ I.P. Massey, *Administrative Law*, 362 (Eastern Book Company, 9th ed., 2017).

¹² (1988) 4 SCC 669).

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order had given the respondent a rightful expectation that he shall not be deprived of government aid without affording him fair hearing.

The new standards for land allocation were contested in *Navjyoti Coop. Group Housing Society v. Union of India*¹³ in another Supreme Court case. According to the initial policy, the date of registration was used to determine seniority in terms of allocation. Later, a policy modification was implemented in 1990 that altered the standards for determining seniority based on the date that the final list was approved.

The Supreme Court held that the Housing Societies had a "legitimate expectation" due to their long history of regular and ongoing allotment practices. The court clarifies the notion further by stating that the existence of "legitimate expectations" might have a variety of effects, one of which is that the authority shouldn't disappoint "legitimate expectations" unless there is a justifiable public policy purpose for doing so.

It is further underlined that acting fairly includes giving those who are likely to be impacted by a change in a policy that was consistent in nature a reasonable opportunity. The Honorable Court ruled that a public notice should have been used to provide the Housing Societies with this option.

In the case of *Food Corporation of India v. Kamdhenu Cattle Feed Industries*¹⁴, the Supreme Court made the astounding point that while a judgment may not be arbitrary if it fails to take into consideration a reasonable or genuine expectation, it may not be immediately enforceable under the law. Whether an expectation is reasonable depends on the context and must be determined on a case-by-case basis.

The Supreme Court discussed this doctrine in great detail in *Union of India v. Hindustan Development Corporation*¹⁵, beginning with the definition of the doctrine¹⁶, which states that a person can have a legitimate expectation of being treated in a certain way even though he doesn't have a legal right to do so.

The Delhi High Court outlined the legal position with regard to genuine expectation as follows in *GNCT of Delhi v. Naresh Kumar*¹⁷:

¹³ (1992) 4 SCC 477.

¹⁴ (1993) 1. SCC 71.

¹⁵ (1993) 3 SCC 499)

¹⁶ Lord Mackay of Clashfern, *Halsbury's Laws of England*, 151 (Lexis Nexis, 4th edn. 1997).

¹⁷ 2013(56) PTC 282 (Del).

First off, even while a citizen's merely reasonable or legitimate expectation might not amount to a distinct, enforceable right, omitting to consider it and give it the appropriate weight could result in the decision being arbitrary.

Second, if a public authority has expressly committed to something, a claimant may have a valid expectation if (a) they have a reasonable expectation that a regular practice would continue, (b) they can reasonably assume that the expectation will be met, and (c) they have a genuine expectation.

Thirdly, the individual must be affected by the administrative authority's decision by being deprived of a benefit or advantage that he had previously been permitted to enjoy by the decision maker and that he can legitimately expect to be permitted to continue to enjoy until some justifiable grounds for withdrawing it have been disclosed to him.

Fourth, if the authority wants to go against the person's legitimate expectation, it must provide them a chance to make a representation.

Fifth, using the principle of legitimate expectations, the court might decide whether the policy change that resulted in the loss of the expectation was irrational, perverse, or something that no reasonable person could have done.

In *Madras City Wine Merchants v. State of Tamil Nadu*¹⁸ factors that may give rise to legitimate expectations were proposed, including:

- If the administrative body made an explicit promise or representation;
- That the promise was clear and unambiguous;
- The existence of a consistent practice in the past that the person can reasonably expect to operate in the same manner;

In *P.T.R. Exports (Madras) Pvt. Ltd. And Others v. Union of India and Others*¹⁹, it was determined that the doctrine of legitimate expectations has no bearing when the appropriate authority is given the authority to make a decision under an executive policy or the law itself, and that the government is not prohibited from developing new policy as and when necessary in the public interest.

¹⁸ (1994) 5 SCC 509.

¹⁹(AIR 1996 SC 3461)

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Respondents in the case *National Buildings Construction Corporation v. S. Raghunathan*²⁰ were employed by NBCC (a government company) as assistants to work on a project in Iraq. The respondents chose to receive both a deputation allowance and pay on par with that of a Central P.W.D. employee. They received a foreign allowance worth 125% of their base salary in addition to a modification in their basic pay. They claimed that the revised pay scale should be used to fund this allowance. The accusation, which was backed up by reasonable expectations, was refuted by the NBCC. The decision that NBCC didn't keep any such promise or commitment was agreed upon by the Court. The Court explained the notion, pointing out that it is based on administrative law and that government organizations shouldn't act arbitrarily or with excessive discretion. The Court also brought up a procedural matter, claiming that the assertion of "legitimate expectation" should have been stated in the pleadings itself and that the High Court erred by allowing the point to be made during arguments without pleadings or an affidavit to support it.

The aforementioned cases suggest that the concept includes both substantive and procedural components.

In the case of *Bannari Amman Sugars Ltd. v. CTO*²¹, it was reaffirmed that protecting legitimate expectations should not come at the expense of not fulfilling an overriding public interest. This means that in the event that a person's legitimate expectation is not met, the decision-making body can conceal itself behind a "overriding public interest."

2 LEGITIMATE EXPECTATION VIS-À-VIS PROMISSORY ESTOPPEL

In the case where the Jharkhand Government had failed to implement the Industrial Policy and subsequent Notification that promised a 50% rebate to Industrial Units on electricity duty, Dr. DY Chandrachud and Indu Malhotra²², JJ, took the opportunity to explain the development and application of the doctrines of Promissory Estoppel and Legitimate Expectations over the years.

According to prior judicial opinions, the concept of promissory estoppel cannot be used as a "sword" in English law to create a claim for the enforcement of a promise made without any payment. Its use in those decisions has been limited to acting as a "shield" to prevent the promisor from asserting the enforcement of its strict legal rights in situations where there has been an oral or nonverbal signal that

²⁰(1998) 7 SCC 66)

²¹ (2005) 1 SCC 625)

²²*State of Jharkhand v. Brahmputra Metallics Ltd.*, 2020 SCC OnLine SC 968

such rights are suspended. However, it was noted that in the lack of a specific pronouncement by the House of Lords stating that it can be a cause of action, it was difficult to assert with certainty that English Law has altered from the usual approach of interpreting promissory estoppel as a "shield" instead of a "sword".

The law is less restrictive in this sense in Australia and the United States, in contrast. In order to address the injustice being done to a party that has depended on a promise, India established a more comprehensive formulation of the theory. According to the Supreme Court in *Motilal Padampat Sagar Mills Co. Ltd. v. State of UP*²³, promissory estoppel is an equitable principle that is unaffected by the notion of consideration, unlike in English law. Given the general scorn that the doctrine of consideration has received from distinguished jurists, Justice P N Bhagwati's ruling stated that we "need not be unduly anxious to project this doctrine against assault or erosion nor allow it to dwarf or stultify the full development of the equity of promissory estoppel or inhibit or curtail its operational efficacy as a justice device for preventing injustice." In cases where it is required to do so in order to satisfy the equity, we do not see any good reason why promissory estoppel shouldn't be permitted to establish a cause of action....

Parallel to the development of the notion of reasonable expectations in English law is the doctrine of promissory estoppel. As a parallel to the private law idea of promissory estoppel, the doctrine of legitimate expectation first emerged in the realm of public law. Since then, however, English law has made a distinction between the theories of legitimate expectation and promissory estoppel as separate remedies under private law and public law, respectively. "The tenets of fairness in government transactions serve as the foundation of the notion of legitimate expectations. It becomes relevant if a public entity gives someone the impression that they will receive a real benefit. Legitimate expectation under English law differs from the doctrines of promissory estoppel in that it can give rise to a legal claim. Because it considers both an official practice and a promise made by a public authority, the law of legitimate expectation has a wider application than promissory estoppel.²⁴ It may be necessary to demonstrate a party's harm as a result of relying on the promise in order to use the promissory estoppel concept. Even while it is usually necessary to demonstrate that the promisee has changed its position as a result of relying on the promise, the fact that the promisee has suffered no harm may be crucial in determining whether it would be "inequitable" for the promisor to break their promise. However, the notion of legitimate expectation does not contain such a criterion. Furthermore, although the doctrine of legitimate expectation in public law is predicated on the norms of fairness and non-arbitrariness surrounding

²³ (1979) 2 SCC 408

²⁴ B. N. Cardoza, *The Nature of Judicial Process*, 4th ed. (Ingram, 169, 2004).

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the conduct of public authority, the idea of promissory estoppel in private law is based on a promise made between two parties. "This is not meant to imply that situations in which a State institution has entered into a private contract with another private party do not apply to the law of promissory estoppel. Instead, under English law, it does not apply where the State has communicated with a private entity on behalf of its public interests²⁵.

The theories of promissory estoppel and reasonable expectations are frequently confused in Indian law. Citizens have suffered as a result of this doctrinal misunderstanding, which has the regrettable side effect of rendering the law ambiguous. Since citizens continue to build their lives on the faith they place in the State, representations made by public officials must be held to exacting standards. Consistency and clarity are crucial for arranging company operations in the commercial sphere as well. "It breaches the faith that citizens have placed in the State when public authorities don't follow through on their promises without giving the people a good justification for it. The degree of confidence that can be placed in the government to live up to the expectations that it generates will determine the creation of a business-friendly environment for investment and trade. Using Justice S. Saghir Ahmad as its spokesperson, a three judge panel in *National Buildings Construction Corporation v. S. Raghunathan*²⁶ concluded that: "The theory of "legitimate expectation" has its roots in the area of administrative law. When managing the nation's affairs, the government and its ministries are expected to uphold its declarations of policy or intention and treat each citizen with complete consideration and without abusing their discretion in any way. The policy declarations cannot be arbitrarily ignored or only partially applied. Natural justice is violated when unfairness takes the form of unreasonableness. The concept of "legitimate expectation" developed in this setting and is now a source of both substantive and procedural rights. However, it has been determined that "legitimate expectation" claims need reliance on representations and harm to the claimant in a manner similar to claims based on promissory estoppel. It is crucial to remember that this Court made this comment while examining the boundaries of the legitimate expectation theory under English law at the time. The English Law has changed in relation to the doctrine of legitimate expectation since that time and after the decision in *National Buildings Construction Corporation*. To put it another way, it has actively worked to set the two theories apart and provide the doctrine of legitimate expectations a more substantial foundation. Justice H. L. Gokhale emphasized the several factors that underlie the doctrines of promissory estoppel

²⁵ I.P. Massey, *Administrative Law*, 363 (Eastern Book Company, 9th ed., 2017).

²⁶ (1998) 7 SCC 66

and fair expectation in a concurring decision in *Monnet Ispat and Energy Ltd. v. Union of India*²⁷.

"There has to be a promise, on the basis of which the promise has acted to its prejudice, for the doctrine of promissory estoppel to be applied," he stated. The rationality and fairness of the State conduct are the main factors to be taken into account when applying the notion of legitimate expectation. Speaking through Chief Justice T S Thakur, the Court discussed the ruling in *Monnet Ispat* and held that the doctrine of legitimate expectation "cannot be claimed as a right in itself, but can only be used when the denial of a legitimate expectation leads to the violation of Article 14 of the Constitution."²⁸

3 DOCTRINE OF LEGITIMATE EXPECTATION: RECENT TRENDS

The Supreme Court has invoked and applied the doctrine of legitimate expectation in many cases. Some trends and key points related to the doctrine of legitimate expectation as laid down by the Supreme Court are as follows:

- **Broadening Scope:** The scope of legitimate expectation was gradually broadening. Originally, it applied mainly to situations involving a promise or representation by a public authority. However, courts were increasingly willing to recognize it in cases where a consistent practice or established policy created a legitimate expectation, even in the absence of a specific promise.
- **Procedural Fairness:** One of the central issues in cases involving legitimate expectation was the requirement of procedural fairness. Courts were concerned not only with the substance of the decision but also with whether the process leading to the decision was fair. This meant that public authorities were often required to give affected parties a fair hearing or an opportunity to make representations before changing their policies or revoking a benefit²⁹.
- **Balancing Public and Private Interests:** Courts often had to balance the public interest in allowing public authorities to change policies or decisions against the private interests of individuals or entities who had legitimate

²⁷ (2012) 11 SCC 1

²⁸ *Union of India v. Lt. Col. P.K. Chaudhary*, (2016) 4 SCC 236.

²⁹ Prachi Bhardwaj, "Legitimate expectations: Evolution and application of the doctrine in India and how is it different from promissory estoppel as explained by Supreme Court" *SCC Online* (2020).

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expectations. Striking this balance was a key consideration in legitimate expectation cases.

- **Limitations on the Doctrine:** Despite its expansion, there were still limitations on the doctrine. Courts were generally cautious about interfering with government decision-making, and not all expectations were considered legitimate. The expectation had to be reasonable and founded on a clear and unambiguous promise or practice³⁰.
- **International Human Rights:** In some jurisdictions, the doctrine of legitimate expectation was applied in the context of international human rights law. For example, individuals might have a legitimate expectation that their rights under international conventions would be respected by their own government.
- **Emerging Jurisprudence:** There was an emerging jurisprudence on the doctrine of legitimate expectation in various jurisdictions. Courts were issuing judgments that provided guidance on the application of the doctrine in specific contexts, such as immigration, contract law, and environmental law.

Some of the major recent trends pertaining to Promissory estoppel are as follows:

- **Expanding Application:** Promissory estoppel has been applied more broadly beyond traditional contract law cases. Courts have increasingly recognized its applicability in various contexts, including employment relationships, family law, and business negotiations.
- **Relaxation of Requirements:** Some jurisdictions have been more lenient in applying the traditional elements of promissory estoppel, such as the requirement of a clear and unequivocal promise. Courts have shown a willingness to consider more ambiguous promises and representations.
- **Interplay with Contract Law:** There has been ongoing debate about the relationship between promissory estoppel and traditional contract law principles. Courts and legal scholars have explored how promissory

³⁰ Saurabh Mishra, "Women in Indian Courts of Law: A Study of Women Legal Professionals in the District Court of Lucknow, Uttar Pradesh, India," 2 *Open Edition Journals* (2015).

estoppel can complement or supplement traditional contract law doctrines, especially in cases where a formal contract may be lacking³¹.

- **Equitable Remedies:** Courts have been more inclined to grant equitable remedies, such as specific performance or injunctive relief, in cases involving promissory estoppel when monetary damages are inadequate to compensate the aggrieved party³².
- **Reliance and Damages:** There has been a focus on the concept of reliance and how damages are calculated in promissory estoppel cases. Courts have grappled with issues related to foreseeability of damages and whether the reliance must be reasonable.
- **Public Policy Considerations:** Some courts have weighed public policy considerations when applying promissory estoppel. They may consider whether enforcing a promise would be in the public interest or if it would lead to unjust results.
- **Electronic Communications:** The rise of electronic communications, such as emails and text messages, has introduced new challenges in promissory estoppel cases. Courts have had to determine whether electronic messages can constitute promises or representations for the purposes of this doctrine.
- **International Application:** Promissory estoppel principles have been applied in international contexts, particularly in international commercial disputes where parties from different jurisdictions are involved.

4.1 Agnipath Scheme and Legitimate Expectation & Promissory Estoppel

The Delhi High Court decision upholding the Agnipath plan was challenged in a number of cases brought before the Supreme Court. Candidates who were shortlisted in the prior Army and Air Force recruitment process were among the petitioners. A provisional list for the Air Force contained some of these individuals' names on it, but the recruitment process was abandoned after Agnipath scheme was made known. Under the previous hiring procedure, written tests,

³¹ B. Shiva Rao, *The Framing of India's Constitution*, (Indian Institute of Public Administration, 1st ed., 1968).

³² Gian Maria Farnelli, "Recent Trends in Investment Arbitration Concerning Legitimate Expectations: An Analysis of Recent Renewable Energies Investment Case Law", 27-56 *International Community Law Review* 23 (2021), available at: <https://doi.org/10.1163/18719732-12341457>

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physical exams, and medical examinations were all undertaken.³³ A provisional selection list with the ranks was then issued. In light of this, the petitioners urged that the government should be ordered to finish the previous procedure under the promissory estoppel concept.

The Supreme Court heard this case involving the doctrine of promissory estoppel in relation to petitions of shortlisted applicants in the old recruiting process for the Army and Air Force, which was canceled when the Agnipath plan was announced.

The Supreme Court observed that "overarching public interest is always subject to promissory estoppel." Additionally, it stated that "this is a public employment and not a contract matter where promissory estoppel in public law was applied" and that "the question of applying this principle will not arise in this case."³⁴

4.2 Rule of Law and Doctrine of Legitimate Expectation

According to the established legal precedent, there cannot be any promissory estoppel against the laws, Justice MR Shah stated in the matter of *K.B. Tea Product (P) Ltd. v. CTO, Siliguri*³⁵. The High Court correctly determined that this is a "existing right" that can be changed, modified, and/or withdrawn rather than a "vested right."

According to Justice Murari, the idea of legitimate expectation ensures that public officials act fairly and consistently when making decisions, whereas the doctrine of rule of law ensures that laws are enforced equally and consistently. Together, these values support openness and accountability in governmental operations and contribute to preserving the public's faith in the legal system. Additionally, he claimed that because the doctrine of legitimate expectation and the doctrine of promissory estoppel are two distinct concepts, the general prohibition against promissory estoppel against a legislation cannot be applied to the doctrine of legitimate expectation.

³³ *Harsh Ajay Singh v. Union of India*, 2023 SCC OnLine Del 1145.

³⁴ *State of Maharashtra v. Bhagwan*, (2022) 4 SCC 193, *Chhaganlal Keshavalal Mehta v. Patel Narandas Haribhai*

& *State of Orissa v. Gopinath Dash*, (2005) 13 SCC 495.

³⁵ 2023 SCC Online SC 615.

Justice Murari concluded that the Authority must be held responsible for the genuine expectation it had generated and ordered the respondents to continue providing the appellants with the original amendment's benefits until they ran out.

In the case of *State of Rajasthan v. Sharwan Kumar Kumawat*³⁶, the Supreme Court reaffirmed that there is no right vested over a pending application for the lease of government land or over the minerals beneath the soil in any type of land over which the government has a vested right and regulatory control, and this does not give rise to any Legitimate Expectation.

4 CONCLUSION

The doctrine of legitimate expectation must be used when an administrative body has established a requirement that, absent a conflicting public interest, it would be within its power to meet. This may occur as a result of representation, prior behavior, or other elements. A person whose claim is principally supported by the law of reasonable expectation, however, must first show that he relied on the alleged representation and that the expectation's failure was harmful to him. The court would only intervene if the judgment was shown to be arbitrary, unreasonable, a serious abuse of power, a violation of natural justice principles, and not made in the public interest. However, a claim that is purely founded on an honest expectation without any other support cannot entitle the claimant to immediately rely on this concept.

The idea, which grants locus standi to a person who may or may not have a direct legal claim, has unquestionably grown in importance in Indian courts. In India, the theory of legitimate expectations very well leads to the right to judicial review, which is a procedural right, but the substantive part of the doctrine is still in its infancy. Academics have been divided on whether the doctrine should be applied to substantive rights at all. It has been suggested that applying the theory to substantive rights could lead to the breakdown of the separation of powers and constitute an overreach of the judiciary's authority.

The Supreme Court in *State of Jharkhand v. Brahmputra Metallics Ltd*³⁷ came to the conclusion that the doctrine of legitimate expectation cannot be asserted as a right in and of itself and can only be used when the denial of a legitimate expectation results in a violation of Article 14 of the Constitution in an effort to provide a cogent basis for the doctrine that is not merely grounded on analogy with the doctrine of promissory estoppel. One way that the Article 14 guarantee of non-arbitrariness

³⁶ 2023 SCC OnLine SC 898.

³⁷ 2020 SCC OnLine SC 968.

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finds tangible expression is through the theory of substantive legitimate expectation.

The State and all of its instrumentalities must adhere to Article 14³⁸ of the Constitution, whose non-arbitrariness is a key component, in the contractual realm as well as in all other State actions. Public law forbids unrestricted discretion. A public authority is only allowed to utilize its authority for the benefit of the public. This imposes the obligation to act fairly and to implement a strategy that embodies fair play. It is required to take into account and give proper weight to the reasonable or legitimate expectations of the persons likely to be impacted by the decision as well as that unfairness in order to satisfy this criteria of non-arbitrariness in a State action. Apart from impairing the validity of the decisions made in a particular case, the exercise of the power may amount to an abuse or excess of power. Although it would be impossible, the rule of law allows for judicial review to regulate the use of discretion in the exercise of power.

Because the numerous methods of producing Legitimate Expectation, it appears to have little in common other than acting as a handy pretext for judicial action, the doctrine of legitimate expectations is regarded to be on the edge of being incoherent. The doctrine is more cohesive than it initially appears to be. It is important to note here that when a public body ties itself to a non-legal, goal-dependent norm, a valid expectation develops. All of the genuine expectation scenarios fit this explanation. It is cost-effective since all Legitimate Expectation scenarios may be accounted for by just one element. The explanation can also be used to show why it is important to meet realistic expectations and why the concept conflicts with the law against restricting discretion. The rule-based account offers a realistic explanation of what unifies the various methods of establishing legitimate expectations and what sets them apart from other grounds of legal protection due to these and other advantages.

³⁸ Article 14 of the Constitution of India says that “the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”