

“Interplay of Doctrine of Legitimate Expectations and Principle of Locus Standi”

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Abstract

Doctrine of legitimate expectation is the principle which has been created by the court that could be reviewed for the administrative action. This was evolved from the case of “*Lord Denning in Schimdt v Secretary of Home Affairs [1969] 2 Ch. 149*” which is related to natural justice rules and also it has been said in the case that each and every person has legitimate expectation of right to be heard. The prevailing view in locus standi seems to be that judiciary's recourse is accessible solely to an individual who has suffered a legal damage because of the infringed acts of the State, or the government authority or any other person, or who has been likely to incur a legal injury. It is legal right of the person so that he can either approach or sue the court. The author in this research article has discussed about the evolution of the concept of the doctrine of legitimate expectation with its substantive and procedural aspects concerning to it. Article 14 of the Indian constitution states the rights to equality and everyone is equal before law. The author also did the extensive discussion on the development of legitimate expectation with respect to Article 14 of the Indian Constitution. The author has also shown light on the various judgements which are concerned to doctrine of legitimate expectations and the assessment of cases in respect to this doctrine. Also, the author has shared her viewpoint on how the doctrine of legitimate expectation can be developed in India and the literal meaning of legitimate expectation.

Introduction

Any type of government can only function effectively if it engages its citizens on a regular basis. Any human is forced to seek legal assistance when such encounter results in an undesirable effect. One of these tools for judicial scrutiny in administrative law is the theory of legal principle. People frequently have expectancies of the institutions, which may be derived from prior actions or assurances given to them. With the vested authority of delegating regulation and judiciary authority, the officials may, nevertheless, make a choice that is contrary to the aspirations of the population, depriving them of a preconceived gain or opportunity. The person has locus standi to contest the administrative action at that point, according to the notion of legitimate expectation. It guarantees that the government won't abuse its power because to a feeling of fairness and natural justice.¹ This notion does not grant a person a legal right but it can make the person in charge responsible if the obligation they were given is broken. Therefore, it is an effort to protect the general population from a policy choice that might have an impact on them.

¹Sarica AR, *Introduction to the doctrine of legitimate expectation*, LAWCTOPUS (Nov. 10, 2022), <https://www.lawctopus.com/academike/doctrine-legitimate-expectations/>

Meaning

Legally speaking, when an individual has a credible hope that governing bodies would regard them a certain manner due to a past history of performing a process or an express sacred covenant by the regulatory entity in dispute, this is known as a legitimate expectation (hereinafter LE). A public authority may be held accountable under this notion in the absence of a reasonable expectation. As a result, the idea of LE is relevant to the interaction between a person and a governmental authority.²

Which expectations are reasonable? It is definitely not a legal entitlement. It is the hope for a gain, relief from suffering, or remedy that could normally result from a dedication or recognized pattern. The term "established practise" describes the regular, predictable, and definite action, procedure, or activity of the decision-making authorities. The hope must be reasonable, comprehensible, and genuine in order to be justified. A true expectancy could be based on sporadic, casual, or random behaviours, or be irrational, illogical, or flawed. It is not enforceable as a right since it is not one. Courts developed the idea in order to conduct judicial review of official action. Because of a contractual need or a long-standing practise, regulatory action is required to be more impartial, which gives it a practical nature. In short, a person may be deemed to have a "legitimate expectation" of a specific behaviour if a government, either directly or tacitly, issues a declaration or guarantee concerning that behaviour or if the authority has routinely and repeatedly permitted that estimation to exist in the history.³

So, this doctrine might be considered a type of administrative authority check. The notion of LE requires public authorities to act equitably when a representation has been made by, among other things, taking into account all pertinent circumstances pertaining to that genuine expectation. The public authority is now also required to refrain from acting in a way that subverts legitimate expectations unless there is a compelling argument based on public policy to support it.⁴

Locus Standi

Having locus standi gives you the authority to sue or appear in court. Both the adversary and prosecutorial procedures require that the parties who appear well before judges have suffered harm or had their rights violated. Consequently, for any law suit to continue, there needs to be locus standi.

²The doctrine of legitimate expectation in India, LAWYERSGYAN (Nov 09, 2022), <https://lawyersgyan.com/blog/the-doctrine-of-legitimate-expectation-in-india/>.

³SeemenMuzafar, *Doctrine of legitimate expectation in India: An analysis*, IJARMSS (Nov. 08, 2022), <https://garph.co.uk/IJARMSS/Jan2013/10.pdf>

⁴AK Srivastava, *Doctrine of legitimate expectation*, IJTR (Nov 11, 2022), <http://ijtr.nic.in/articles/art13.pdf>.

As a result, *locus standi* refers to the position of the party who has the right to bring a lawsuit. Thus, any offended party may seek redress in court in accordance with the *locus standi* concept.⁵

India's development of the doctrine of reasonable expectation

In the case of *Schmidt v. Secy. of State for Home Affairs*⁶, the doctrine of LE was first discussed. In this instance, the Home Secretary, who had previously said that no discretionary benefits would be awarded to this cult, refused to extend the entrance permits of foreign students of "Scientology" as a matter of policy. In this case, it was decided that LE does not arise after the allowed period of time.

In the case of *State of Kerala v. K.G. Madhavan Pillai*⁷, the principle of LE was first explored in the Indian context. In this case, the respondents were given a punishment that required them to modernise 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 natural justice principles. The second order breached natural justice principles, the Apex Court decided, and the punishment had given the respondents a rightful expectation.

The new standards for land allocation were contested in *Navjyoti Coop. Group Housing Society v. Union of India*⁸. 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 judges of SC decided that the Housing Societies had a reasonable anticipation due to their long history of regular and ongoing allotment practises. The court clarifies the notion further by stating that the existence of "legitimate expectations" might have a variety of effects, One of them is that until there is a compelling social policy reason to do otherwise, the agency shouldn't fall short of "reasonable expectations."

It is further emphasised that being fair entails allowing individuals who are most likely to be harmed by a modification in a coherent strategy a fair chance. The Honorable Court decided that in order to offer the Housing Societies this choice, an official announcement ought to have been utilised.

In *Food Corporation of India v. Kamdhenu Cattle Feed Industries*⁹, the Court elaborated on the nature of the doctrine of legitimate expectations, holding every person has the right to expect to be handled equitably since civil servants are required to do so by law. The Court

⁵Souradh C. Valson, Concept of locus standi, IPLEADERS (Nov. 12, 2022), https://blog.ipleaders.in/philosophical-basis-public-interest-india-concept-scope-locus-standi/#Locus_Standi.

⁶(1969) 2 Ch. 149.

⁷(1988) 4 SCC 669.

⁸(1992) 4 SCC 477.

⁹(1993) 1 SCC 71.

also made the startling point that even if a decision may not be arbitrary if it disregards a legitimate or reasonable expectation, it might not be immediately enforceable by the law. Giving such an expectation the proper weight is necessary must fulfil the prerequisite for state action that prohibits unfairness; alternatively, it could. A case-by-case analysis and consideration of the context are required to determine whether an expectation is fair.

The Supreme Court discussed the doctrine in great detail in *Union of India v. Hindustan Development Corporation*¹⁰, beginning with the definition of the doctrine in *Halsbury's Laws of England, Fourth Edition, Volume I (I) 151*, which declares that even when an individual isn't legally entitled to the equal treatment, they would have an LE of doing so.

Article 14 – Indian Constitution

The right to a hearing—which has a basis for LE is included in the principle of natural justice, which is covered by *Article 14 of the Indian Constitution*. To determine if a genuine expectation was denied, non-arbitrariness and unreasonableness are essential. *Article 14* places a strong emphasis on every individual having a reasonable or genuine expectation that they would be treated fairly in interactions with public authorities.

Requirements of a Legitimate Expectation

There are a number of requirements that must be met for an expectation to be deemed "legitimate." It is necessary to make a representation that is both obvious and unambiguous and is founded on an anticipated advantage that must go beyond mere hope. In addition, a decision-conduct maker's had to have led to the anticipation. To whomever the expectation may apply must be the person making the request for judicial review under the doctrine. The claim must be supported by full disclosure and made by a person with legitimate authority. Last but not least, the anticipation cannot be combined with a general assumption of fairness or the proper application of the governmental authority's judgement. When a court examines a case claiming that a legitimate expectation was breached, it will take into account the reasonableness of the premise, if it was unlawful for the administration to do so, and, had it been, whatever remedies may be available.¹¹

Categories

There are primarily two categories of reasonable expectations. These are what they are:

1. Procedure-Related

Such a justified expectation develops when the person believes that the administrative authority will follow a particular set of steps before issuing the decision. For instance, when a person expected an existing policy to be followed but it wasn't, when a person anticipated being subjected to one policy but was instead later subjected to another, or when a person anticipated receiving a hearing but wasn't given one. There may be many more cases of

¹⁰(1993) 3 SCC 499

¹¹ Sanjay Jain, Public Law foundation of the doctrine of legitimate expectations in India, 3 ILR 61, 61-96, 2018.

procedural justifiable expectation; these examples are not exclusive or limited. The process can take the shape of an inquiry, hearing, representation, etc. It centres on the idea that administrative decisions are not made arbitrarily. A person who has a justified expectation must be given the chance to be heard.

2. Substantial Legitimate Expectations

When a person has been persuaded by a public authority of an expectation where he would have been given some real advantage, this type of reasonable expectation arises. When a person receives a specific advantage as a result of a promise or representation made by a public authority, there is a substantive lawful expectation. Despite this, it is thought that this form of reasonable expectation might not have a solid foundation and might crumble because of a paramount public interest.

Applicability and Reasonableness

When the representation is unmistakable, clear, and devoid of any pertinent qualifications, the doctrine of LE may be applied. It is necessary for the public authority's actions to create expectations. Someone with actual or apparent power is expected to make the representation on behalf of the parties who have been wronged, and it must apply to them. Finally, this theory can be used when there is a violation of the Principles of Natural Justice, such as *Audi Alteram Partem*, which is the rule of fair hearing or fair play action, and *Nemo debet esse iudex non propria*, which states that no one shall be the judge of his own case.

Depending on the language used or the actions of the parties, the representation may be deemed reasonable. The party who was wronged must not have obtained the representation by deceptive means and must not have divulged all necessary details. The representation should typically be "clear, unequivocal, and free from all pertinent qualification." However, if the public authority abused its position by acting in a way that was so unjust, this does not necessarily establish that a valid expectation existed.

The court in the case of *Punjab Communications Ltd v. Union of India and Others*¹² stated that the principle of LE permits the court to determine whether a change in policy that is the cause of defeating the LE is irrational, or in other words, that no reasonable person would have made. Later, the court stated in the recent case of *Jitendra Kumar and Others v. State of Haryana and Others*¹³ that a legitimate expectation differs from a wish or a hope and is not the same as preparation. Simply expressed, it demands consistency, reliability, and certainty in how the state communicates with the wider populace and is established on a privilege and is anchored in the legal system.

¹² (1999) 4 SCC 727.

¹³ (2016) 2 SLR 452.

Causes of the development of a justified expectation

*Madras City Wine Merchants v. State of Tamil Nadu*¹⁴ hypothesised circumstances that could result in the creation of reasonable expectations. Specifically, if the administrative body had made any specific promises or representations, those promises would have been obvious and unambiguous. It would also help if there had been a regular pattern of behaviour in the past that the individual may reasonably anticipate will continue.

It was established in *P.T.R. Exports (Madras) Pvt. Ltd. And Others vs. Union of India and Others*¹⁵ the authorities is not prohibited from developing new strategy because of "legitimate expectations" whenever obligated in the national good, and that the principle of procedural fairness has no influence when the valuable source is encouraged to make a judgement underneath an executive strategy or the legislation itself.

In *M.P. Oil Extraction v. State of M.P.*¹⁶, the Supreme Court held that the doctrine of legitimate expectations applies to public law and is regarded as a substantive and enforceable right in the relevant circumstances. In light of prior practise and the renewal clause, it was determined that the industries had a fair expectation that the agreements would be renewed similarly.

In the case of *National Buildings Construction Corporation v. S. Raghunathan*¹⁷, NBCC appointed respondents to work on assignment for a global undertaking that would be finished in Iraq (Government Company). The Respondents choose to earn a delegation stipend in addition to a remuneration that is comparable to that of a Central P.W.D. employee. They received a foreigner stipend at one hundred twenty five percent of the base salary in addition to having their basic pay adjusted. They argued that the increased pay scale should be used to provide this allowance; nevertheless, NBCC denied their claim, despite the fact that it was founded on reasonable expectations. The Court supported the ruling that NBCC didn't uphold this commitment or agreement.

The Court outlined the theory, pointing out that it has its origins in statutory interpretation and that state agencies shouldn't act randomly or as a result of an exercise of authority.

The Court also brought up a jurisdictional matter, stating that the assertion of a "natural justice" ought to have been stated in the complaints themselves and that the High Court erred in allowing the assertion at the stage of discussions given the absence of documents and evidence to substantiate it.

The aforementioned example suggests that the concept has both procedural and substantive components.

¹⁴(1994) 5 SCC 509.

¹⁵AIR 1996 SC 3461.

¹⁶(1997) 7 SCC 592.

¹⁷(1998) 7 SCC 66.

In the instance of *Bannari Amman Sugars Ltd. v. CTO*¹⁸ it was reaffirmed that safeguarding legitimate expectations really shouldn't occur at the price of failure to satisfy an overwhelming public purpose, which allows the decision-making authority to hide under the pretext of "overarching interest of the community" if a person's LE is not satisfied.

Conclusion

The legal concept of LE provides locus standi to a person who, despite the lack of a legal right, wishes for the relevant authority to proceed with a certain objective in mind. The principle's procedural component is established. However, the significant aspect of the theory is still being developed. Regarding India, it may be argued that values of natural justice, which are enshrined by article 14 of the Constitution, serve as the foundation for justifiable expectations. The Courts have established assertion as the necessary margin for deciding if the justification for such repudiation of a real anticipation, rather than bolstering the precept. Since everything that violates the Constitution's provisions is null and void, such a reading has rendered the regulation unnecessary in India. From an Indian perspective, it is also crucial to present a test that will ensure that the standard isn't set so high as to render the law unnecessary. Courts in India can take steps to clarify the precept, especially due to the Superior Court's Constitutional Bench's regular reference and to broaden the definition of substantive lawful anticipation. The concepts of reasonableness should also include shared equitable norms for any changes in strategy selection. It will be difficult to decide which petitions that contest the change in course of action should be conceded. However, when properly applied, the regulation can be a tool for ensuring acceptable regulatory activity.

¹⁸(2005) 1 SCC 625.