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LEGAL STATUS AND RIGHTS OF PUBLIC CORPORATION WITH REFERENCE TO RULE OF ADMINISTRATION

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Abstract:

"A good company is a journey makes the way seem shorter." The above quote by Izaal Walton clearly defines the whole workings of a company in few words. Today, probably the giant corporations, the labour unions, trade associations and other powerful organisations have taken the substance of sovereignty from the state. We are witnessing another dialectic process in history, namely, that the sovereign state having taken over all effective legal and political power from groups surrenders its powers to the new massive social groups. Being a company is simply being a legal entity which is formed by an association of people may be legal or natural and a government company can simply be associated with the company which is owed by government or simply the company in which government have its share more than 51%. Likewise a public corporation is an statutory or non-statutory body which is formulated for working in the public domain and working for people to enhance the public sector economy. A corporation is an artificial being created by law having legal entity entirely separate and distinct from the individuals who compose it with the capacity of continuous existence and succession, notwithstanding changes in its membership. This paper basically deals with the basic concepts of government companies and public corporations, their structural mechanism, working criteria, rights, duties and liabilities.

Keywords: Government Company, Public Corporation, Public Services, Rights and Duties

I. Introduction:

In a welfare state, not all trade, business or commerce is left to private enterprise. In the modern democratic world, to some extent, governance also participates in these activities. This is so because welfare states seek to ensure social security and social welfare for the common mass. With the view to establish a socialistic pattern of society, it participate in trade, commerce and business. The political philosophy of twenty first century has thus, impelled the government to enter into trade and commerce with a view to making such enterprises pursue public interest and making them answerable to the society at large.

Once the government entered the field of trade and commerce it becomes increasingly evident that the governmental machinery hitherto employed merely for the maintenance of law and order was

wholly inadequate and unsuitable for business exigencies, which demanded a flexible approach. It was therefore, felt necessary to evolve a device which combined the advantages of flexibility with public accountability. It was in response to this need that institution of public corporation grew.¹

A government company would be subject to all those limitations which are imposed by the Companies Act, 1956. The modern state acts through its own civil service as well as through the instrumentalities of corporations and companies. The whole concept of government companies and public corporations are given further.

II. Government Companies:

Besides statutory corporations, the government carries on its commercial and service functions through non- statutory companies² registered under the companies act, 1956. These are limited liability companies where the government holds the majority share capital. They are formed either to start capital. They are formed either to start a new venture or to take over an existing business. Section 617 of the companies act defines government companies as for the purposes of the act, Government Company means any company in which not less than fifty-one percent (paid up share capital) is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments [and includes a company which is a subsidiary of a Government company as thus defined. After registration a government company, like any other company, is considered a distinct legal person with perpetual succession and common seal. But a government company is different from other companies inasmuch as its capital is subscribed by the government and no other person can purchase its share except with the permission of the government. It is controlled by the government which can appoint and remove its directors³.

A government company is not a “State” within the meaning of Article 12 of the Constitution⁴ and its employees are not government servants within the meaning of Article 311 of the Constitution.⁵ Since a government company is neither a creation of a statute or a department or an agent of the government, it is not subject to the writ jurisdiction of the High Court under Article 226 of the Constitution.⁶ However, a writ of mandamus would lie against a government company to enforce a statutory or public duty required by the statute.” Therefore, the Kerala High Court issued a writ against a government company when it acted in violation of a statutory duty imposed upon it by the Import and Export Control Act, 1947 in matters of regulation of import and export in cashew nuts.⁵⁰ Some High Courts have also issued writs against government companies for violation of standing orders made under the Industrial Employment (Standing Orders) Act, 1946 on the ground that the standing orders thus made have the force of law.

¹ R.D.Shetty v. International Airport Authority, AIR 1979 SC 1628

² Garner, “Administrative Law” (1963) 267

³ State of Assam v. Kanak Chandra Dutta AIR 1967 SC 884

⁴ Vide Kartick Chandra Nandi v. W.B. Small Industries Corporation.ltd .,AIR 1967 Cal 237

⁵ State Of Assam v. Kanak Chandra Dutta, AIR 1967 SC 884.

⁶ R. Lakshmi v. Nayveli Lignite Corp. Lim, AIR 1966 Mad 399.

Though the government company is a distinct legal person separate from its members, yet, in order to mitigate hardship to its members or private individuals, courts may provide the remedy by “lifting the corporate veil” so that the real nature of the company may be determined and the liability may be fixed. Therefore, courts may lift the corporate veil if the number of the members falls below the statutory minimum, or where there has been fraudulent trading, or where the company is a mere “sham”, or where it is controlled by enemy aliens, or where it is desired to establish its tax residence. However, the courts in India are of the view that they are not entitled to lift the veil and that it can be done by legislation alone.⁷

A government company would be subject to all those limitations which are imposed by the Companies Act, 1956. The modern state acts through its own civil service as well as through the instrumentalities of corporations and companies. Such instrumentalities acting as an instrumentality or agency of the government act for the State, though in the eyes of law they possess a distinct personality. Their actions are State actions and, like the State, they are bound to respect fundamental norms of public action. But governmental control will not be the only test to determine whether such instrumentalities are agents of the State. The court propounded several others besides large financial assistance by the State, monopoly status, the functions performed and the like. Specifically, if a department of the government is transferred to such instrumentality, it would be a strong factor supportive of this inference. The *Prasar Bharti* will, therefore, be bound to respect the fundamentals of public dealings. The tests are not exhaustive. It is the cumulative effect of various factors that determines the character of such instrumentalities. Therefore, these State agencies will be subject to the same constitutional or public law limitations as government. The rule inhibiting arbitrary action by government must equally apply to these instrumentalities in their dealings with the public, whether by way of giving jobs or entering into contracts or otherwise, and it cannot act arbitrarily and enter into a relationship with any person it likes at its sweet will, but their actions must be in conformity with some principles which meet the test of reason and relevance. Therefore, setting aside legal technicalities and dogmas, the courts would do well to exercise effective judicial control over the actions of these instrumentalities.⁸

Of late, the public sector in India has been a subject of vehement controversy because of its inefficiency and consequential sickness. The expectation that the public sector would generate resources for the economic growth of the country has remained unfulfilled. The following Statistics would show the real state of PSUs in India⁹:

Reasons for this state of affairs are many, but the main reason seems to be as someone from Japan remarked, “We run our government on business lines and you run your business on government lines.” For various reasons, public sector became more a blight than blessing. But, in fact, public sector

⁷ Sunil Kumar v. Mining and Allied Machinery Corp. Ltd, AIR 1968 Cal 322.

⁸ , Ramana Dayaram Shetty v. International Airport Authority of India, (1979)3SCC489

⁹ K.L.Mathew v. Union of India AIR 1974 Ker

did not fail us, we failed it. It consumes 20 per cent of domestic credit but generates only less than six per cent of the gross domestic product (GDP). Some of the reasons for this state of affairs seem to be 1) lack of efficiency which may include poor returns, poor technology and marketing skills; 2.) protection from competition; 3) political interference; 4) artificially depressed prices to appease voters; 5) serious environmental consequences; 6) lack of continuity and autonomy in the administration; 7) lack of accountability; 8) inward looking attitude; 9) disregard of foreign capital; and 10) pampered labour which did not talk of productivity. It is for these reasons that privatisation of public sector is taking place. Fact remains that government can breed bureaucrats and not entrepreneurs. The government following the policy of disinvestment in 2014-15 disinvested its share in PSUs to the tune of Rs.2427717 Crores as against the target of Rs. 36,925 crores. Thus, the progress of disinvestment is also slow and tardy. Except for the Seven Maharatna and Seventeen Navratna,¹⁰ the PSUs give an image of shattered scaffolding of broken reed.

However, it is wrong to assume that privatisation is a panacea for all ills. It has its own problems which may include 1) exploitation, 2.) Consumerism, 3) self-centredness, and 4) divorce from norms and ideals. These may lead to a “joyless economy” and “unsocial society” where the people are left with nothing except to go for shopping. Nevertheless, with good governance, vigilant accountability, and regulatory institutions with emphasis on social justice and social growth, it can be harnessed in the service of the people. It is possible that in the short run it may increase inequality, it may be harsh on workers and inefficient producers, but in long run it may be rewarding in terms of creating more jobs.

III. Public Corporation:

A corporation is an artificial being created by law having legal entity entirely separate and distinct from the individuals who compose it with the capacity of continuous existence and succession, notwithstanding changes in its membership. In addition, it possesses the capacity as such legal entity of taking, holding and conveying property, entering into contracts, suing and being sued, and exercising such other powers and privileges as may be conferred on it by the law of its creation just as a natural person may.¹¹

The growth of public undertakings, statutory or non-statutory, is a by-product of an intensive form of government. In order to undertake and fulfill multifarious welfare and service commitments, the government may choose from amongst the various forms of organisation. The government may undertake to accomplish its objectives either through its own department, or through an autonomous statutory corporation, or through a government company registered under the Companies Act, 1956. The choice between the various available alternatives would depend on the policy, purpose and the nature of activity.¹²

¹⁰ List of Maharatna and Navratna available at- http://dpe.nic.in/publications/listofmaharatna_navratna_and_miniratna

¹¹ S.S. Dhanoa v. MCD (AIR 1981 SC 1395)

¹² I.P. MASSEY, “A book on Administrative law”, Eastern Book Publication, 9th Edition, 2015

Before independence, because of the limited ambit of governmental activity, the growth of public undertakings was negligible. But immediately after independence, a phenomenal burgeoning of public undertakings became evident as a result of the socialistic, welfare and service policies of the government. The directive principles of state policy contained in Article 39(1)) and (c) enjoined the State to direct its policy towards ensuring 1) that the ownership and control of material resources of the community are so distributed as best to serve the common good; and 2.) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment. This led to the growth of public undertakings as an instrument for the economic structuration of the country because in a public body accountability, freedom of action, public purpose and conscience corporate spirit, and concern for the consumer could be legitimately expected. Furthermore, these public bodies could also generate resources much needed for the development of the country. In the beginning, the organisational choice for undertaking any activity was in favour of statutory corporations. The industrial policy statement of 1:948 clearly indicated that the management of State enterprises will, as a rule, be through the medium of public corporations. But thereafter, a conspicuous shift favouring governmental companies as the organizational model for State enterprises was in evidence. However, a trend favouring statutory corporations was again visible. The Administrative Reforms Commission in 1967 recommended statutory corporations as a mode for organising governmental commercial activities. It is also in conformity with the provisions of the Constitution because Article 19(6) provides for “the carrying on by the State or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise”. However, with the new policy of “free market economy”, the role of the government in economic field through public corporation is bound to diminish.¹³

The process of disinvestment began in 1903, but the progress is still slow and tardy. Except nine public sector undertakings (PSUs), rest give an image of shattered scaffolding of broken reed due to the reasons of lack of efficiency, political interference, protection from competition, lack of accountability, inward looking attitude, pampered work force and corruption. Certainly, privatisation is also not a magic-wand. It has its own problems of exploitation, consumerism, self-centredness, and lack of social responsibility and standard of professional ethics. Thus, the need for an effective and efficient regulatory role of the State cannot be over emphasised. A strong State shall still be necessary to enforce social justice concerns of society.

IV. Rights and Duties of Public Corporation:

A. Status

A public corporation possesses a separate and distinct corporate personality. It is a body corporate with perpetual succession and a common seal. It can sue and be sued in its own name. Public

¹³ Sukhdev Singh v. Bhagatram AIR 1975 SC 1331

corporations have been recognised in the Constitution. It expressly provides that the State may carry on any trade, industry, business or service either itself or through a corporation owned or controlled by it to the exclusion of citizens. The laws providing for State monopolies are also saved by the Constitution.”¹⁴

B. Rights

A public corporation is a legal entity and accordingly, like any other legal person, it can sue for the enforcement of its legal rights. It should not, however, be forgotten that it is not a natural person, but merely an artificial person, and, therefore, cannot be said to be a citizen within the meaning of the Citizenship Act, 1955. Therefore, a corporation cannot claim any fundamental right conferred by the Constitution only on citizens.” All the same its shareholders, being citizens, can claim protection of those fundamental rights.¹⁵ An interesting question which arises is whether fundamental rights conferred by the Constitution on a person or a citizen can be enforced against a public corporation. The rights conferred by Part III of the Constitution can be enforced not only against the “State” but also against all “local or prize: authorities.” In *University of Madras v. Shantha Bai*”¹⁶, a narrow view had been taken by the Madras High Court and it Was held that the fundamental rights cannot be enforced against a University. But in *Raiasthan SEB*“, ghe Supreme Court took a liberal view and held that the Electricity Board (ell within the category of “other authorities” within the meaning of Article 12. of the Constitution and fundamental rights can be enforced against it. After the momentous pronouncement of the Supreme Court in *Sukhdev Singh*“¹⁷, now it is Well settled that fundamental rights can be enforced against public corporations.

C. Powers

There is no doubt that a statutory corporation can do only those acts as are authorised by the statute creating it, and that powers of such corporation do not extend beyond it. A statutory corporation must act within the framework of its constitution. Its express provisions and necessary implications must at all events be observed scrupulously. If it fails to act in conformity with law. The action is ultra vires and invalid.¹⁸

D. Duties

A statutory corporation being an instrumentality of the State must exercise its powers in just, fair and reasonable manner. Its approach must be beneficial to the general public. It must act bona fide. Wide powers conferred on corporations are subject to inherent limitations that they should be exercised honestly and in good faith.¹⁹

E. Lifting of veil

¹⁴ Arts. 19(6)(ii) and 305, Constitution of India.

¹⁵ *Barium Chemicals Ltd. v. Company Law Board*, AIR 1967 SC 295

¹⁶ AIR 1954 Mad 67.

¹⁷ AIR 1975 SC 1331

¹⁸ *Lakshmanswami v. L.I.C.* AIR 1963 SC 1185

¹⁹ *Mahesh Chandra v. UJ’. Financial Corpn.*, (1993) 2. SCC 279; AIR 1993 SC 935; *Tapan Knmar Sadhukhan v. Food Corporation of India*, (1996) 6 SCC 101.

In the expanding horizon of modern jurisprudence, lifting of corporate veil is permissible. The court can look behind the veil to see the real face of the corporation.

V. Liabilities of Public Corporations:

A. Liability in contracts

A public corporation can enter into contract and can sue and be sued for breach thereof. Since a public corporation is not a government department, the provisions of Article 299 of the Constitution do not apply to it and a contract entered into between a public corporation and a private individual need not satisfy the requirements laid down in Article 299. Similarly, the requirement of a statutory notice under Section 80 of the Civil Procedure Code, 1908 (CPC) before filing a suit against the government does not apply in case of a suit against a public corporation.²⁰

B. Liability in torts

A public corporation is liable in tort like any other person. It will be liable for the tortious acts committed by its servants and employees “to the same extent as a private employer of full age and capacity would have been”.²¹ This principle was established in England in 1866, and has been adopted in India also. A public corporation cannot claim the immunity conferred on the government under Article 300 of the Constitution. A corporation may be held liable for libel, deceit or malicious prosecution though it cannot be sued for tortious acts of a personal nature, such as assault, personal defamation, etc. Similarly, it can sue for tortious acts of any person, such as libel, slander, etc. Likewise, all defences available to a private individual in an action against him for tortious acts will also be available to a public corporation²².

But a statute creating a public corporation may confer some immunity on the corporation or on its servants or employees with regard to the acts committed by them in good faith in discharge of their duties. For example, P13, Section 28 of the Oil and Natural Gas Commission Act, 1959 reads 215 under: NO suit, prosecution or other legal proceedings shall lie against the Commission or any member or employee of the Commission for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made there under. For ultra vires act of a servant, however, the corporation cannot be held liable.²³

C. Liability for crimes

A public corporation may also be held vicariously liable for offences committed by its servants in the course of employment²⁴, e.g. libel, fraud, nuisance, contempt of court, etc. Since, however, it is

²⁰ C.K.Takwani Civil Procedure (2013) 426-37.

²¹ C.K.Takwani “Tortious liability”, Lecture 10.

²² Jain and Jain, Principle of Administrative Law, 986, pp 1033

²³ A. Laksbmanaswami Mudaliar v. LIC, AIR 1963 SC 1185: 1963 Supp (2.) SCR 887. 44. See, for “Vicarious liability”, Lecture 10.

²⁴ C.K.Takwani “Vicarious liability”, Lecture 10.

an artificial person, it cannot be held liable for any offence which can be committed only by a natural person, e.g. murder, hurt, bigamy, etc²⁵.

D. Liability to pay tax

In the absence of grant of immunity in a statute, a public corporation is subject to payment of tax and other duties like any other person under the relevant laws. The fact that the corporation is wholly owned or controlled by the government or the property in possession of the corporation belongs to the government does not ipso facto exempt the corporation from payment of taxes as it cannot be said to be “government”. A corporation is an “assesse” under the Income Tax Act and a “dealer” under the Sales Tax Act.²⁶

E. Crown Privilege

A public corporation is only “a public authority with large powers but in no way comparable to a government department” and therefore, the doctrine of “Crown privilege” cannot be claimed by public corporations.

VI. Merits and Demerits of Public Enterprises:

Statutory public corporations and government companies are preferred to departmental organisations because they obviate the increase in government departments and the proliferation of civil servants. Organisational autonomy of public corporations and governmental companies results in a decline of political interference, delay and red-tapism, which may be rampant in bureaucratic departmental organisations. Government departments also lack initiative and push which is necessary for the success of any commercial activity. Financial autonomy, flexibility and commercial accountability are also not within the easy reach of a departmental organisation.²⁷

In some situations, government companies as a mode of organisation of an activity is preferred to statutory corporations, for companies obviate the necessity of rushing in a legislative measure every time a corporation is to be established. In case of companies, a greater amount of flexibility in action is possible as the articles of association of the company can be easily amended. Companies also make collaboration and capital participation more easily. Statutory corporations have definite advantages over other forms of organisations due to their autonomy, financial and managerial, freedom of action, and commercial accountability.

However, no consistent pattern is visible in the choice of the government from these three forms of organisations. The Railways and Posts and Telegraphs systems are run through departmental organisation, airways are managed through a statutory corporation, and State trading is organised through a government company.

Out of these three forms of organisations, through which governmental functions are exercised, departmental organisation does not present much legal difficulty as regards status of the organisation,

²⁵ R v. I.C.R Hanlage 91944) 1.All E R 613

²⁶ AIR 1964 SC 1486

²⁷ I.P.MASSEY, “A book on Administrative law”, Eastern Book Publication, 9th Edition, 2015

rights of the employees, and liabilities of the government because the employees of such an organisation are government servants and the State is liable for contracts and torts to the extent laid down under Articles 299 and 300 of the Constitution. This, therefore, mainly deals with the other two forms of organisations:

(1) Statutory public corporations. (2) Government companies.

VII. Statutory Public Corporation:

In the US, it is an age of independent administrative agencies, regulatory or benefactor, but in India the growth is halting because the government does not want to surrender any of its powers, especially regulatory, to any independent agency and lose the definite political advantage it possesses. Independent statutory agencies discharging governmental functions pose a constitutional problem also. In India, one of the bases of the Constitution is ministerial responsibility to Parliament, which in its turn is responsible to the people. The independent agencies discharging governmental functions may appear to run counter to this basic norm of a democratic Constitution. But the control which Parliament exercises over Such agencies in India makes them responsible and responsive.²⁸

VII. Chief Characteristics:

A statutory public corporation may be defined as an agency created by an Act of legislature, Operating a service on behalf Of the government, but as an independent legal entity with funds of its own and largely autonomous in management. Because a public corporation is a hybrid organisation combining features of a government department and a business company, it is difficult to lay down its basic characteristics with exactitude. However, the in lowing points may be noted:

1. Statutory corporation is a creature of a statute which lays down it rights, duties and obligations. Therefore, a corporation can haw those rights and exercise those functions only which are author, issued by the statute, either expressly or by necessary implication. Provided it is not expressly prohibited. Actions of a corporation outside the authorised area of operation are ultra vires and cannot bind the corporation. Such ultra vires acts cannot be ratified and the doctrines of estoppel or acquiescence do not apply in such cases.
2. It has a separate legal entity and, therefore, can sue or be sued in its corporate name. It can hold and dispose of property by such name.
3. Depending on the provisions of the statute of its creation, a corporation is largely autonomous in finance and management. It has funds of its own.
4. It operates an activity on behalf of the government which may be regulatory, benefactor, commercial or developmental.
5. The statute may delegate rule-making power to a corporation; such rules and regulations are binding if they are Within the authority, made in the manner laid down by the statute and do not violate any provision of the Constitution.

²⁸ Ibid. pp 410

6. A statutory corporation is a “State” within the definition of the term in Article 12. of the Constitution, and therefore, is subject to the writ jurisdiction of the Supreme Court and High Courts under Articles 32 and 226 of the Constitution.²⁹

The logical deduction from this, therefore, is that fundamental rights can be claimed against a corporation.³⁰ Mandamus would also lie against the corporation to enforce a statutory or public duty. Whether other public undertakings such as government companies and registered bodies are “State” or not within the meaning of Article 12 would depend on the question whether they are “agency or instrumentality” of the State. If a public undertaking is an agency or instrumentality of the State, then it will be a “State” under Article 12 and, hence, writ jurisdiction of the court shall be extended to it. Private corporations are not “State” within the scope of Article 12 and, hence, are not within the gravitational orbit of the writ jurisdiction of the courts unless these are operating in public space and discharging public functions.

VIII. Contemporary Study over public corporation: Right to Public Services³¹

Democracy, as defined by ‘Sir Abraham Lincoln’ is the rule “Of the people, by the people and for the people” and India being the largest democracy follows a general principle of ‘Rule of general public’. But today’s era when democracy has turned up to be “Demon-Cracy” and influence of “Money” has made it “Mono-Cracy” the craze of extreme autocracy has enhanced. As ‘Power Corrupts and absolute power corrupts absolutely’ this extreme craze of autocracy has turned the public servants, who are appointed to serve people into the one who treats the public into worst possible way and bribe became a part and parcel, an integral part, the wheel to move files from table to table and if this wheel is not inserted in the vehicle of the work for government office the work can take a completion period of an infinite time.

Due to this slow, troublesome and painful general mechanism which is followed in the public offices has compiled the general public to hate the government offices or places of public services but there came the “Right to Public services Act” which ensured and given the Right to public services to general public.

A. The Right to Public Services Act:

Public Services literally means that the services related to public and every citizen is entitled to have hassle- free public services and redressal of his grievances. Accordingly, the right to public services helped the states (particular) to frame a structure towards standard, quality and time period of the service delivery, also the transparency and accountability and redressal mechanism for the betterment of general public. In India Right to public services comprises a statutory law to guarantee a

²⁹ Ibid. pp 419

³⁰ Rajasthan SEB v. Mohan Lal, AIR 1967 SC 1857

³¹ Tanay Akash, “Rights to Public Services: A weapon against corruption”, available at <http://www.intolegalworld.com/legalnews>.

time bound delivery of public services such as issuing birth certificates etc. and to give punishment to the public servant who disobeys this statute³².

The motto behind the formation of right to public services litigation is just to make a mere effective as well as more responsive relation in between general public and the government officials. India which is rapidly changing into a welfare state offers a wide amount of rights to its citizens and this right to public services move it two step forward and gives a new dimensions of rights provided. Right to public services could be taken as a day to day and in- practical right which gives benefit on such spheres of day to day life which are the part and parcel of one's living.

These rights are designed to ensure the public to make them aware of and able to claim their rights or entitlements to public services. These are not simply rights but these are commitments to patients, public and staff in the form of rights to which they are entitled, ending the situation of "where to go" and "How to proceed" regarding public services. These rights also aimed to reduce corruption among the government officials and increase transparency and public accountability.

B. The delivery Mechanism:

Right to public services is implemented differently to different states and M.P was the first state to implement this right. At present there are 19 states in which right to public services litigation has been already passed and rights are given to the general public. One more perspective of Right to public services is that it rapidly decreased the rate of exploitation of socially, economically and educationally weaker people, when they tries to owe any public services such as issuing birth certificate, death certificate, income certificate, identity proofs or other certificates such as caste certificate or residential certificates. These rights not only strengthen them but also provide them with the remedies against the irresponsible behaviour of public servants. Several states such as Bihar had for long been treated as India's centre of in efficient governance, rampant corruption, inefficiency and lack of transparency in conduct of government affairs. This situation was worst in marginalised and remote areas of the state. But after the right to public services litigation, it became a time bound act to provide services.

The working procedure of this litigation is also made very easy and flexible. The primary focus is just to provide a time bound public service and if the concerned officer fails to do so than there is a procedure to file an appeal against him, there is also a provision of second appeal. Both the appeals are operational with law and need to be enforced certainly. This reduced the chances of corruption and also created the fear of law and order in the mind of undisputed autocrats³³.

Thus, in a nutshell the right to public services slight differently in different states worked to reduce the corruption rate and ill treatment present inside the public offices by providing the time bound public services to all and to ensure the equality before law.

³² National Textile Workers Union v. P.R.Ramakrishnan, AIR 1983 SC 344

³³ M.P.Jain, Changing Face of Administrative Law in India 1982,pp37-38

IX. Critical Analysis and Conclusion:

Thus it is submitted that the growth of public undertakings, statutory or non-statutory, is a by-product of an intensive form of government. In order to undertake and fulfill multifarious welfare and service commitments, the government may choose from amongst the various forms of organisation. The government may undertake to accomplish its objectives either through its own department, or through an autonomous statutory corporation, or through a government company registered under the Companies Act, 1956. The choice between the various available alternatives would depend on the policy, purpose and the nature of activity. Also, though the government company is a distinct legal person separate from its members, yet, in order to mitigate hardship to its members or private individuals, courts may provide the remedy by “lifting the corporate veil” so that the real nature of the company may be determined and the liability may be fixed. Therefore, courts may lift the corporate veil if the number of the members falls below the statutory minimum, or where there has been fraudulent trading, or where the company is a mere “sham”, or where it is controlled by enemy aliens, or where it is desired to establish its tax residence. However, the courts in India are of the view that they are not entitled to lift the veil and that it can be done by legislation alone.

In a nutshell it can be said that the government company and the public corporation all are the part of government activity of economic growth and through its various rights, duties and liabilities it can be formulated accordingly. Since a public corporation is a hybrid organism, showing some of the features of a government department while some of the features of a business company, it is not possible to precisely enumerate the characteristics of such corporation. Finally it can be drawn that public sector plays key role in the economic development of the country.
