

Nobility of Doctrine of Estoppel

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Abstract

Synonyms of estoppel is impediment. It is A legal principle that bars a party from denying or alleging a certain fact owing to that Party's previous conduct, allegation or denial. The rationale behind estoppel is to prevent injustice owing to consistency or fraud. There are two general types of estoppel equitable and legal.

Estoppel is a legal defense tool used when someone reneges on or have incorporated multiple forms of the doctrine of estoppel. Estoppel is based on the Principle that it would unjust if a person intentionally by conduct or in any other manner has induced other person to believe and act upon such a representation; neither he or those representing can in subsequent court proceeding deny the truth. The term Estoppel is derived from the maxim "allegans conraria non est-audien dus"

Which implies a person alleging contradictory facts should not be heard and is the species of presumption" Juris et de juri" where in the fact presumed is taken to be true against the party standing the same. The Doctrine of estoppel is based on the latin maxim NEMO CONTRA FACTUM SNUM PROPRIUM VENIR PROTEST which implies No one is permitted to adduce contradictory statement against his act.

Key Words: Synonyms, Estoppel, impediment, allege, consistence, incorporate induced, representation presume, Imperative, detriment.

Introduction: The Doctrine of estoppel described under section 115-117 of Indian evidence Act 1872. Which described as

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When a person

- (a) By his (i) declaration
or
(ii) act
Or
(iii) Omission
- (b) Intentionally - Caused or permitted another person
 - (i) to believe a thing be, true and
 - (ii) to act upon such belief

neither (i) he nor his representative can be allowed to deny the truth of that thing in a suit or proceeding between himself and such person or his representative.

Literature Review

- (i) Administrative Law by SP Sathe
- (ii) Lecturers on Administrative Law -by C.K. Takwani
- (iii) Administrative Law cases and Materials by Prof. Andress Molina Gimenz
- (iv) Basic of administrative - by U.C. Santa Bar Bara Bran School
- (v) Administrative Law by I.P. Massey

Principle:- The doctrine of estoppel is based on the following three maxims

- (1) No one can take benefits of his own misdeed
- (2) Cold and hot breathing cannot be taken simultaneously (Shiva Shyam v/s State of UP AIR 2004 SC 1908)
- (3) One cannot accept or deny a thing at a same time i.e. one cannot approbate and reprobate at the same time (Parushottan v/s Bhagwan sharan AIR 2003 M.P. 128)

It is based on equity, justice and good conscience firstling credit of this doctrine overted on Pecard v. bears¹

Estoppel depends on the existence of some duty. For a plea of estoppel to success it is imperative to prove that there exised neglect owing some duty. Estoppel as rule of civil action. Only limited applicaiton can take Place in criminal matters.² On the case *B.L. Shreedhar v K.H. Munireddy*.³ Supreme Court Stated that a doctrine of estoppel is capable of creating or defeating rights. Estoppel differs from presumption, as estoppel is a personal disqualification laid upon a

person peculiarly circumstanced from proving peculiar facts, while presumption rule is that particular inference will be drawn from particular facts.⁴ It also differs from res judicata.

The Term 'Estoppel' comes from an old French word "Estoppel" (or variation) Which means "Stopper Plug" referring to placing a bracket on the imbalance of the situation The rationale behind estoppel is to prevent injustice owing to fraud or inconsistency"

Conditions

1. Representation by a Person to another
2. The other should have acted upon he said representation and
3. Such action should have been decremented to the interests of the person to whom the presentation has been made

Typed of Estoppel

1. Estoppel by Silence or acquiescence
2. Employment estoppel
3. Reliance based estoppel
4. (a) promisory estoppel without any enforceable contract a promise has been made by one party to another.
(b) Proprietary estoppel, where the parties are litigating the title to land.
5. Estoppel of deed
6. Estoppel by record
7. Estoppel against minor

Indian development of estoppel

See 115 of Evidence Act 1872

"The History of eloctrine of promisory estoppel in India can be traced to the lose Gange Mfg Co. v Souraj⁵ Mal where the Calcutta High Court had held that the doctrine of estoppel was not only limited to the law if Evidences but that Peron may be estopped from doing acts or rely particular arguments or contentions. Estoppel is a judicial device in common law legal system where by a lows may prevent or 'Estop" a person from making assertion from going back on his a her word, the Person being sanctioned is estoppel. Estoppel may prevent some one from bringing particular claim. Legal doctrine of Estoppel are based in both common law and Equity. It is also concept in International.

Estop-Which comes middle english

Estoppen itself barrowed from old French-Estopper, Estouper Presumably from vulger Latin

Stupare - Ancient Greek Stuppe broken flax. The Noun form Estoppel is based on the old French Estoupail. Stopper, bung a derivative of Estouper.

The doctrine of promissory or equitable estoppel is well settled administrative law. It represents a principle evolved by equity and avoids injustice. Wade⁶ states, "The basic principle of estoppel is that a person who by some statement or representation of fact causes another, to act to his detriment in reliance on the truth of it is not allowed to deny it later even though it is wrong. "Justice here prevails over truth" (emphasis supplied). Garner also states: "A person may be precluded (stopped) in legal proceedings from denying the existence of some State of fact the existence of which he has previously asserted (by words or conduct), intending the other party to the proceedings to rely on the assertion, and in reasonable reliance on which that other person has, in fact, acted to his detriment. Though the facts asserted may be untrue, the principle of estoppel may make them unchallengeable."⁷

According to the traditional theory, the doctrine of promissory estoppel cannot itself be the basis of an action. It cannot found a cause of action: it can only be shield and not a sword.

Similarly, as per the traditional view, the doctrine of equitable estoppel or promissory estoppel applies to private individuals only and the Crown is not bound by it., Thus, in *R. Amphitrite v. R.*⁸, an undertaking was obtained by a ship-owner from the Government to the effect that on certain conditions being fulfilled, the ship would not be detained. Relying on this assurance the ship was sent and contrary to the promise, she was detained by the Government. The owner sued on a petition of right for damages. The court dismissed the action and held that the undertaking was not binding on the Government.

Modern-view

It is, however, necessary to make it clear that the doctrine of promissory or equitable estoppel is not really based on the principle of estoppel, but it is a doctrine evolved by equity in order to prevent injustice. The doctrine of promissory' estoppel need not, therefore, be inhibited by the same limitation as estoppel in the strict sense of the term, it is equitable principle evolved by the courts for doing justice and there is no reason why it should be given only a limited application by way of defence.⁹

Likewise, it has now been accepted and the rule of estoppel applies the Crown as well. There is no justification for not applying this against the Government and exempt it from liability to carry out its promise given to an individual. The Crown cannot escape from its liability saying that the said doctrine does not bind it. Lord Denning has rightly observed:

"I know that there are authorities which say that a public authority cannot be estopped by any representations made by its officers. But those statements must now be taken with considerable reserve. There are many matters which public authorities can now delegate to their officers. If an officer acting within the scope of his ostensible authority makes a representation on which another man, then a public authority may be bound by it, just as much as a private, concern would be."

Thus, in *Robertson v. Minister of Pensions*,¹⁰ one R, an army officer claimed a disablement pension on account of war injury. The War Office accepted his disability as attributable to Military service. Relying on this assurance R did not take any steps which otherwise he would have taken to support his claim. The Ministry thereafter refused to grant the pension. The court held the Ministry liable. According to Denning, J., the Crown cannot escape by saying that estoppels do not bind the Crown, for that doctrine has long been exploded. (emphasis supplied)

So far as Indian law is concerned, it is heartening to find that in India not only has the doctrine of promissory estoppel been adopted its fullness but it has been recognised as affording a cause of action the person to whom the promise is made. The doctrine has also been applied against the Government and the defence based on executive necessity has been categorically negative. Before more than a hundred years, long before the doctrine was formulated by Lord Denning, in *High Trees* in England, the High Court of Calcutta applied the said doctrine. and recognised a cause of action founded upon it in *Ganges mfr. v. Sourujmulr*".¹¹ The doctrine was also applied against the Government by the High Court of Bombay in the beginning of this century in *Muni. Corpn. of Bombay v. Secy. of State*.¹²

*Union of India v. Anglo Afghan Agencie*¹³ is the classic judicial pronouncement in India on the doctrine of promissory estoppel. In this historic case, 'Export Promotion Scheme' was published by the Textile Commissioner. It was provided in the said scheme that the exporters will be entitled to import raw materials up to 100 per cent of the value of the exports. Relying on this

representation, the petitioner exported goods worth 5 lacs of rupees. The Textile Commissioner did not grant the import certificate for the full amount of the goods exported, No opportunity being heard was given to the petitioner before taking the impugned action. The order was challenged by the petitioner, It was contended by the Government that the scheme was merely administrative in character and did not create any enforceable right in favour of the petitioner. It was also argued that there was no formal contract as required by Article 299(1) of the Constitution and, therefore, it was not binding on the Government. Negating the contentions, the Supreme Court held that the Government was bound to carry out the obligations undertaken in the scheme. Even though the scheme was merely executive in nature and even though the promise was not recorded in the form of a formal contract as required by .Article 299(1) of the Constitution, still it was open to a party who had acted on a representation made by the Government to claim that the Government was bound to carry out the promise made by it. Speaking for the Court, Shah, J. (as he then was) stated ':

"We are unable to accede to the contention that the executive necessity releases the Government from honouring its solemn promises relying on which citizens have acted to their detriment.¹⁴ The Court further observed

"We cannot therefore accept the plea that the Textile Commissioner is the sole judge of the quantum of import licence to be granted to an exporter, and that the courts are powerless to grant relief, if the promised import licence is not given to an exporter who has acted to his prejudice relying upon the representation. *To concede to the Departmental authorities that power would be to strike at the very root of the rule of law.*¹⁵ (emphasis supplied)

*Century Spg. and Mfg. Co. v. Ulhasnagar Municipality*¹⁶ is another leading case decided by the Supreme Court following its earlier pronouncement in *Anglo-Afghan Agencies*.¹⁷ In this case, the petitioner company set up its factory in the 'Industrial Area'. No octroi duty was payable for the goods imported in that area. The State of Maharashtra published notification constituting with effect from April 1, 1960, a municipality certain villages including the 'industrial Area'. On representation being made by the petitioner company and other manufacturers, the State

Exceptions: Following are the exceptions to this rule-

- (1) When the truth is known to the either parties
- (2) On Question of law
- (3) Against the law

Distinction

	Estoppel		Res-judicata
1	Estoppel prevents a person from saying one thing at one time and retracting from it at another time	1	Res-judicata Prevents the jurisdiction on the subject Matter already decided by competent court on same issue, between the same parties
2	Estoppel is rule of equity	2	Res-judicata is rule of legal procedure
3	Estoppel is based on rule of equity, Justice and good consciences	3	Res-judicata is based on public policy
4.	Estoppel originates from representation or conduct of the Party	4	Res-Judicata originates from decisions of court
5.	Estoppel Prevents a person to rebut what has been represented by him.	5	Res-judicata prevents the courts to hear a case which has already been decided by court of competent jurisdiction
6.	Estoppel shuts the mouth of parties/agents or representative	6	Res-judicata shuts Prevents jurisdiction of courts.
7.	u/s 115 of evidence Act says about the rule of estoppel	7	Section-11 of CPC (1908) says about Res-judicata
8.	Estoppel can be inferred from the conduct of the parties	8	Res-Judicata is claimed on the basis of Previous decision of competent Court.

Distinction

	Estoppel		Waiver
1	Estoppel is a rule of evidence and does not form basis of instituting a suit	1	waiver originates from contractual relationship and may give birth to cause of action
2	The knowledge of reality or truth is not a factor or essential condition for claiming estoppel.	2	In case of waiver real facts or truth is known to both the parties
3	In some circumstances the acquiescence amounts to estoppel	3	In case of waiver, some, act, or conduct is necessary together with acquiescence
4.	Estoppel is used as defence and not cause for bringing a suit	4	Waiver may cause to give rise a right.

Conclusion

"Public bodies are as much bound as private individuals to carry out representations of facts and promises made by them, relying on which other persons have altered their position to their prejudice. The obligation arising against an individual out of his representation amounting to a promise may be enforced ex-contract by a person who acts upon the promise: when the law requires that a contract enforceable at law against public body shall be in certain form or be executed in the manner prescribed by statute, the obligations be enforced against it in appropriate cases in equity."¹⁷

The Court further pronounced:

If our nascent democracy is to thrive different standards of conduct for the people and the public bodies cannot ordinarily be permitted. A public body is, in our judgment, not exempt from liability to carry out its obligation arising out of representations made by it relying upon which a citizen has altered his position prejudice."¹⁸

"It is elementary that in a republic governed by the rule of law, no one, howsoever high or low, is above the law, everyone is subject to the law as fully and completely as any other and the Government is no exception. It is indeed the pride of constitutional democracy.

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2. Estoppel by Silence or acquiescence
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4. Reliance based Estoppel
5. Promissory estoppel without any enforceable contract promise has been made by one party to another.
6. (1880) ILR 5 Cal 669
7. See also S. 43 of the Transfer of Property Act, 1882 ; S. 25 of the Indian partnership Act, 1932.
8. (1921) 3 KB 500 : 126 LT 23 : 91 LAB 75.
9. Central London Property Trust Ltd. v. High Trees House Ltd., (1947) 1 KB 130 : (1946) 1 All ER 256 Motilal Padampat Sugar Mills v.State of U.P. (1979) 2 SCC 409 (426) AIR 1979 SC 621.
10. Lever (Finance) Ltd. v. Westminster Corpn., (1970) 3 All ER 496 (500) : (1971) 1 QB 222 (230).
11. (1948) 2 All ER 767 (770) : (1949) 1 KB 227 (231).
12. ILR (1880) 5 Cal 669 : 5 CLR 533,
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14. AIR 1968 SC 718: (1968) 2 SCR 366.

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16. Id at p. 726 (AIR).
17. (1970) I SCC 582 AIR 1971 SC 1021.
18. Id, at p. 586 (SC(;): 1024 (AIR).
19. Id. at p. 587 (SCC) 1025 (AIR).
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