



LIABILITY OF THE ADMINISTRATION IN TORT AND CONTRACT – AN OVERVIEW

Edited and Compiled by :

Dr. ANANT KALSE

Principal Secretary

Maharashtra Legislature Secretariat and Secretary

Commonwealth Parliamentary Association, Maharashtra Branch

Vidhan Bhavan, Mumbai



MAHARASHTRA LEGISLATURE SECRETARIAT

VIDHAN BHAVAN, MUMBAI 400 032

AUGUST 2016

**LIABILITY OF THE
ADMINISTRATION IN TORT AND
CONTRACT – AN OVERVIEW**

Edited and Compiled by:

Dr. ANANT KALSE

Principal Secretary

Maharashtra Legislature Secretariat and
Secretary, Commonwealth Parliamentary Association
Maharashtra Branch
Vidhan Bhavan, Mumbai

FOREWORD

An attempt is being made to provide a glimpse of Liability of the Administration in Tort and Contract. I hope this will help the Students to understand who have deep interest in the Administrative Law. I am also very much indebted to Hon. Shri Ramraje Naik-Nimbalkar, Chairman, Maharashtra Legislative Council and Hon. Shri Haribhau Bagade, Speaker, Maharashtra Legislative Assembly for their continuous support and motivation in accomplishing this task.

I hope this brief compilation will be useful to the Law students.

Vidhan Bhavan :
Mumbai,
dated the 22nd August
2016.

DR. ANANT KALSE,
Principal Secretary
Maharashtra Legislature
Secretariat and
Secretary, Commonwealth
Parliamentary Association
Maharashtra Branch.

The term 'administration' is used here synonymously with 'State' or 'Government'. To what extent the administration would be liable for the torts committed by its servants is a complex problem especially in developing countries with ever widening State activities. The liability of the government in tort is governed by the principles of public law inherited from British common law and the provisions of the Constitution.

The whole idea of vicarious liability of the State for the torts committed by its servants is based on three principles:—

1. Respondent Superior (let the principal be liable)
2. Qui-facit per alium facit per se (he who acts through another does it himself).
3. Socialization of compensation.

Article 300 of the Constitution of India which deals with the extent of liability of the Union of India and the government of a State, instead of laying down the liability in specific terms, refers back to Section 176 of the Government of India Act, 1935. Section 176 of the Act of 1935 refers, in turn, to Section 32 of the Government of India Act, 1915 which, in its turn, refers to Section 65 of the Act of 1858. Section 65 of the Act of 1858 laid down that on the assumption of the Government of India by the British Crown, the Secretary of State for India-in-Council would be liable to the same extent as the East India Company was previously liable. Therefore, in order to determine the extent of liability of the Government in Tort of East India Company. This is certainly a strange way of determining the liability of a State governed by a Constitution. It is because of this "strange way" with *resultant* confusion and complexity that the Law Commission recommended a legislation on the subject.

Accepting the recommendation, the government introduced two Bills, "The Government Liability in Tort", in the Lok Sabha in 1965 and 1967, neither of which emerged as an Act. The government allowed the Bills to lapse on the ground that they would bring an element of rigidity in the determination of the question of liability of the government in tort. Consequently, one has to uncover the extent of liability of the East India Company in order to understand the liability parameters of the administration today because the liability of the administration today is in direct succession to that of the East India Company.

1. In *P. and O. Steam Navigation Co. v. Secy. of State for India* 44 [(1861) 5 *Bom HC Report, Appendix 'A'*] the Supreme Court allowed an action against the Secretary of State for the negligent act of the government workers. In this case, the workers employed by the Kidder pore Dockyard, which was a government dock, were carrying iron bars across a public way passing through the port, which bars they dropped on the road. The noise so created scared the horses of the carriage in which the plaintiff was sitting and he sustained injuries. Sir Barnes Peacock, C.J. who delivered the judgment of the court held that the Company had been invested with sovereign functions but this did not make it a sovereign authority. It may be noted that after 1833, the E.I.C. was acting in a dual capacity exercising commercial functions as also the sovereign powers with respect to the newly-acquired territories as trustees of the Crown. The use of the terms 'sovereign' and 'non-sovereign' function which created confusion in the later development of the law was made clear by Peacock, C.J. in the judgement when he said: "It is clear that the E.I.C. would not have liable for any act of any of its

naval officers in seizing as prize property of a subject, under the supposition that it was the property of an enemy, nor for any act done by a military or naval officer, or by any soldier or sailor whilst engaged in military or naval duty, nor for any acts of any of its officers or servants in the exercise of judicial functions. 45 [(1861) 5 Bom HC Report, Appendix 'A', pp. 14 and 15]

2. The other interpretation of the *P and O case* 47 [*P. & O. Steam Navigation Co. v. Secy. of State of India* (1861) 5Bom HC Report, Appendix 'A'] was that the immunity extended only to cases which may be covered within the definition of the term 'acts of State'. This line of reasoning was adopted by the court in *Secretary of State for India-in-Council v. Hari Bhanji*. 48 [(1882) ILR 5 Mad 273].

3. After independence, in *State of Rajasthan v. Vidyawati (Mst.)* 51 [AIR 1962 SC 933], the Supreme Court of India held the State vicariously liable for the tort committed by its servants. The facts of this case were that in February, 1952, a driver of a government jeep, while driving back from the workshop, knocked down a person on the footpath, causing multiple injuries including fracture of the skull and the backbone, which resulted in his death. A suit by the widow of the deceased and her minor daughter for compensation was decreed by the trial judge against the driver but not against the State. On appeal the High Court decreed the suit against the State also. Hence the State of Rajasthan went in appeal before the Supreme Court. The main argument on behalf of the State was that it was not liable for the tortious acts of its employees for in similar circumstances the East India Company would not have been liable, as the jeep was maintained in

exercise of sovereign powers and not as a part of commercial- activity of the State. B.P. Sinha, C.J. dismissing the appeal by the State of Rajasthan held that the immunity rule of the Crown in England was based on the old feudalistic notions of justice. In India, ever since the time of the E.I.C., the sovereign had been held liable to be sued in tort or in contract and the common law immunity never operated in India. He went on to say that India has now been constituted as a socialistic State with varied welfare activities employing a large army of servants, and therefore, there is no justification in principle or in the public interest that the State should not be held liable vicariously for the tortious acts of its servants. It was thought that this decision has abolished the distinction between sovereign and non-sovereign functions for the purpose of determining the State liability and that henceforth, the government would be liable for the torts committed by its servants in all cases except 'acts of State'.

4. Unfortunately, only three years later, the development of law in this area suffered a setback in *Kasturi Lal v. State of U.P.* 52 [AIR 1965 SC 1039. See also *Alice Jacob: Vicarious Liability of the Government in Torts*, 7 JILI 247 (1965) and *Blackshield: Tortious Liability of Government: A Jurisprudential case-note*, 8 JILI 643 (1966)]. In this case the plaintiff was going to Meerut to sell gold, silver other goods. As he was passing through the city, he was taken into custody by three policemen. His person was searched and all the gold and silver was taken into custody and he was put in the lock-up. On his release his gold was not returned, though silver was immediately returned. The gold had been misappropriated by the Head Constable who fled to Pakistan. Kasturi Lal filed a suit against the

government of Uttar Pradesh for the return of the gold or value. There was a clear finding on record of gross negligence on the part of the police authorities in the matter of safe custody of the gold. However, Chief Justice Gajendragadkar, as he then was reintroduced again the vague distinction of sovereign and non-sovereign functions, and held that the State is not liable because the functions of arrest and seizure of the property are sovereign functions. The court further held that if the act is sovereign, no act of negligence on part of the employees of the State would render the State liable.

The distinction between sovereign and non-sovereign functions is a juristic blasphemy which leads to absurd and arbitrary conclusions. A brief survey of various High Courts' decisions proves this fact beyond all reasonable doubt. In *Satyawati v. Union of India*, 58 [(1974) 1 SCC 690: AIR 1974 SC 890. *It was a case under Fatal Accidents Act*] the Delhi High Court held that the carrying of a hockey team in a military truck to the Air Force to play a match is not a sovereign function. The Bombay High Court held in *Union of India v. Sugrabai*, 59 [AIR 1969 Bom 13.] that the transporting of military equipment from the workshop of the Artillery School is not a sovereign function. The Mysore High Court in *State of Mysore v. Ramchandra Gunda*, 60 [AIR 1972 Bom 93.] came to conclusion that the construction of a reservoir by the State for the purpose of supplying drinking-water is not a sovereign function. The Allahabad High Court held in *State of U.P. v. Hindustan Lever*, 61 [AIR 1972 All 486.] that the government sub-treasury's banking function is not a sovereign function. The Punjab High Court in *Union of India v. Harbans Singh*, 62 [AIR 1959 Punj. 39] came to the conclusion that the State is

not liable for compensation to a person who is run over by a military truck carrying meals for military personnel on duty in the forward area as it is a sovereign function. However, the same High Court in *Union of India v. Jasso (Smt)*, 63 [AIR 1962 Punj 315. See also *Nandram Heeralal v. Union of India*, AIR 1978 MP 209, where the court held that bringing back officers from the place of military exercises is not a sovereign function] came to the conclusion that the carrying of coal to the army headquarters is not a sovereign function. In view of the above facts the need for the development of a more viable principle to determine governmental accountability cannot be overemphasized. A comprehensive legislation on the subject is the only right answer.

In *Khatri (II) v. State of Bihar*, 64 [(1981) 1 SCC 627, 630: AIR 1981 SC 928] an important question was raised regarding liability of the government for wrongful arrest and detention. Moving ahead in the direction of new dimension of the right to life and personal liberty, Justice Bhagwati said: “Why should the court not be prepared to forge new tools and devise new remedies for the purpose of vindicating the most precious of the precious fundamental rights to life and personal property.” It may be noted that the Government of India have not signed the treaty which provides for compensation for wrongful arrest and detention. This amply proves the lack of government’s concern for the precious of the precious rights of the people for the sake of discounting its own inefficiency and lawlessness.

It is heartening to note that the desire of Justice Bhagwati for forging new tools to provide compensation for illegal detention was fulfilled in 1983 by Chief Justice Chandrachud who in *Rudul Sah v. State of Bihar*, 65 [(1983) 4 SCC 141: AIR 1983 SC 1086. In

another case, the Bihar Government agreed to pay Rs. 300 per month to Ram Chandra who was kept in jail for 30 years on the unfounded plea that he has become a criminal lunatic while in prison], laid down a most important principle of compensation against government for the wrong action of its officials. This important judgment was handed down by the Supreme Court against the Bihar Government for the wrongful and illegal detention of Rudul Sah in Muzaffarpur jail for as many a 14 years after he was acquitted by the session's court in June 1968. The Court ordered compensation of Rs 30,000 for the injustice and injury done to Rudul Sah and his helpless family. In this case the Bihar Government had taken the plea that the prisoner was not released even after acquittal because he had been declared insane. Rejecting the contention as 'sordid and disturbing', the Court opined that insanity could well be the consequence rather than the cause of detention. Moving forward the Supreme Court in *Bhim Singh v. State of J. & K.*, 66 [(1985) 4 SCC 677: AIR 1986 SC 494] awarded exemplary cost of Rs 50,000 on account of the authoritarian manner in which the police played with the liberty of the appellant. Similarly in *Mahavir Singh v. State of Rajasthan*, 67 [(1987) 2 SCC 342] the court granted rupees one lakh for the custodial death of a young boy who had been arrested on a theft charge. In fact, these measures are not damages in the strict sense of the term, for which only the ordinary Civil Court process is the remedy. These measures are only for making the fundamental rights of the people meaningful and effective. It is now well-settled that Article 32 is not limited by a particular kind of proceedings except that it must be appropriate with reference to purpose of enforcing fundamental rights.

Moving in the right direction the Supreme Court in *SAHELI, A Women's Resource Centre v. Commr. of Police*, 68 [(1990) 1 SCC 422] the Supreme Court quoted with approval its decision in *Vidhyawati case*, 69 [State of Rajasthan v. Vidyawati (Mst.), AIR 1962 SC 933] where it held that the State is responsible for the tortious acts of its servant committed within the scope of his employment like any other employer. It further clarified that the doctrines of sovereign immunity, 'King can do no wrong', 'King cannot be sued in the courts of its own creation' are feudalistic origin and hence cannot be applied to a democratic country like India. The Court further observed that ever since the time of the East India Company sovereign has been held liable to be sued in tort or contract and the common law liability never operated in India. In this case a women's organization known as SAHELI had filed a writ against the government for compensation on behalf of two poor women who had been mercilessly beaten by the landlord in collusion with the police. The Court not only awarded Rs.75,000/- as compensation but also opined that the amount can be recovered from the police officers responsible for the tort. Therefore, the classification of governmental functions into sovereign and non-sovereign for the purpose of determining governmental liability in tort is no longer a valid classification.

The Apex Court reiterated the same principle of law in *N. Nagendra Rao & Co. v. State of A.P.* 70 [(1994) 6 SCC 205]. In this case the appellants were carrying on business in fertilizer and food grains. The Vigilance Cell raided the premises of the appellants and seized huge stock. Orders were issued to dispose of the stocks pending investigations. However, no action was taken. Later on it was found that there was no irregularity

except in accounting, so the stocks were to be returned to the appellants but by then the stocks had been rendered unusable. The trial court decreed the suit for compensation but the High Court of Andhra Pradesh reversed it on the basis of ratio of *Kasturi Lal* 1965, (*supra*). On appeal the Supreme Court upheld the trial court's decision and held that the doctrine of sovereign immunity stands diluted in the context of modern concept of sovereignty and thus the distinction between sovereign and non-sovereign functions no longer survives. The Court further observed that the State is immune from liability only in cases of facts of State like defence of the country, administration of justice, maintenance of law and order and repression of crime except when Art. 21 are breached. In this Case the Court also confirmed the principle of personal liability of the negligent officer. 71 [See also *Lucknow Development Authority v. M. K. Gupta*, (1994) 1 SCC 243. Where Supreme Court held that when public servant by mala-fide, oppressive and capricious acts in performance of official duty causes injustice, harassment and agony to common man and renders the State or its instrumentality liable to pay damages to the person aggrieved from public fund, the State or its instrumentality is duty-bound to recover the amount of compensation so paid from the public servant concerned. In this case compliance was to be reported to the Supreme Court] Expounding the philosophy behind this principle of law, the Court observed that no civilized system can permit the executive to play with the people of its country and claim that it is entitled to act in any manner as sovereign. No legal or political system can place the State above the law. There is shift from the concept of sincerity, efficiency and dignity of State as juristic person to liberty, equality and rule of law. The

concept of public interest has also changed with the structural change in society. Thus the Supreme Court concluded that any compartmentalization of functions of State into sovereign and non-sovereign or governmental or non-governmental is not sound as it is contrary to modern thinking.

72 [N. Nagendra Rao and Co. v. State of A.P. (1994) 6 SCC 205 at 235]

In yet another landmark decision, the Supreme Court in *Chairman Rly. Board v. Chandrima Das*, *79 [(2000) 2 SCC 465]* held that when a woman, even though a foreign national, is gang raped by railway employees in Railways Yatri Niwas, held, the Union of India which runs the Railways as a commercial activity, would be vicariously liable to a compensation to the victim of the rape.

AIR 1994 SUPREME COURT 2663

R.M. SAHAI AND B.L. HANSARIA, JJ.

Civil Appeal No. 3856 of 1988, D/-6-9-1994

N. Nagendra Rao & Co... .Appellant

v.

State of Andhra Pradesh, Respondent

Maxims - Maxim “lex non protest peccare” that is the King can do no wrong - Had no place in ancient India or in medieval India - Kings in both the periods subjected themselves to the rule of law and system of justice prevalent like the ordinary subjects of the States.

Constitution of India, Article 300 – Sovereign immunity and defence of “act of State” – Not same.

The doctrine or the defence by the “act of State”, is not the same as sovereign immunity. The former flows from the nature of power exercised by the State for which no action lies in civil court whereas the latter was developed on the divine right of Kings.

‘Sovereignty’ and ‘acts of State’ are thus two different concepts. The former vests in a person or body which is independent and supreme both externally and internally whereas latter may be act done by a delegate of sovereign within the limits of power vested in him which cannot be questioned in a Municipal Court. The nature of power which the Company enjoyed was delegation of the “act of State”. An exercise of political power by the State or its delegate does not furnish any cause of action for filing a suit for damages or compensation against the State for negligence of its

officers. Reason is simple. Suppose there is a war between two countries or there is outbreak of hostilities between two independent States in course of which a citizen suffers damage. He cannot sue for recovery of the loss in local courts as the jurisdiction to entertain such suit would be barred as the loss was caused when the State was carrying on its activities which are politically and even jurisprudentially known as 'acts of State'. But that defence is not available when the State or its officers act negligently in discharge of their statutory duties.

Constitution of India, Article 300 – Sovereign immunity – Defence of – Limited only to primary and inalienable functions of constitutional Government – Suit filed by any person for negligence of officer of State in discharge of statutory duty under a law not referable to primary State functions – Not liable to be dismissed on ground of sovereign immunity – Sovereign and non-sovereign functions – Demarcating line between, has disappeared.

In the modern sense the distinction between sovereign or non-sovereign power thus does not exist. It all depends on the nature of power and manner of its exercise. Legislative supremacy under the Constitution arises out of constitutional provisions. The legislature is free to legislate on topics and subjects carved out for it. Similarly, the executive is free to implement and administer the law. A law made by a legislature may be bad or may be ultra vires, but since it is an exercise of legislative power, a person affected by it may challenge its validity but he cannot approach a court of law for

negligence in making the law. Nor can the Government in exercise of its executive action be sued for its decision on political or policy matters. It is in public interest that for acts performed by the State either in its legislative or executive capacity it should not be answerable in torts. That would be illogical and impractical. It would be in conflict with even modern notions of sovereignty. One of the tests to determine if the legislative or executive function is sovereign in nature is whether the State is answerable for such actions in courts of law. For instance, acts such as defence of the country, raising armed forces and maintaining it, making peace or war, foreign affairs, power to acquire and retain territory, are functions which are indicative of external sovereignty and are political in nature. Therefore, they are not amenable to jurisdiction of ordinary civil court. No suit under Civil Procedure Code would lie in respect of it. The State is immune from being sued, as the jurisdiction of the courts in such matter is impliedly barred.

But there the immunity ends. No civilized system can permit an executive to play with the people of its country and claim that it is entitled to act in any manner as it is sovereign. The concept of public interest has changed with structural change in the society. No legal or political system today can place the State above law as it is unjust and unfair for a citizen to be deprived of his property illegally by negligent act of officers of the State without any remedy. From sincerity, efficiency and dignity of State as a juristic person, propounded in Nineteenth century as sound sociological basis for State immunity the circle has gone round and the emphasis

now is more on liberty, equality and the rule of law. The modern social thinking of progressive societies and the judicial approach is to do—

Article 300 - Suits and proceedings :—

- (1) The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or of the Legislature of such State enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.**
- (2) If at the commencement of this Constitution—**
 - (a) any legal proceedings are pending to which the Dominion of India is a party, the Union of India shall be deemed to be substituted for the Dominion in those proceedings; and**
 - (b) any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.”**

Government Liability in Tort —

- (a) The ruling principle is that Government is not liable for torts of its employees committed in the course of performance of sovereign functions.
- (b) The theoretical doctrine as per (a) above is still adhered to, but it is being applied in a liberal manner and the courts interpret “sovereign” narrowly, as is shown by recent law.

It is enough to cite the following cases of importance:—

- (i) P & O steam Navigation Co. v. Secretary of State, (1861) 5 Bom HCR App A. (This was really a Calcutta ruling, reported in the Bombay series).
- (ii) State of Rajasthan v. Vidyawati, AIR 1962 SC 933.
- (iii) Shyam Sunder v. State of Rajasthan, AIR 1974 SC 980, paragraph 21.
- (iv) Kasturi Lal v. State of Uttar Pradesh, AIR 1965 SC 1039.
- (v) Union of India v. Sugrabai, AIR 1969 Bom 13.
- (vi) Virendra v. State of Uttar Pradesh, (1955) 1 SCR 415, 436 (Act of State)

A suit lies against the Government for wrongs done by public servants in the course of business, such as death or injury caused to a person by Police atrocities; Saheli v. Commissioner of Police, AIR 1990 SC 513: (1990) 1 SCC 422: 1990 SCC (Cri) 145.

Liability of Government in Contract

Introduction:-

In England;

- (1) **The King can do now wrong.**
- (2) **Crown Proceeding Act, 1947 - the Crown can now be placed in the position of an ordinary citizen.**
- (3) **Wade said :— “It is fundamental to the Rule of Law that the Crown, line other Public authorities, should bear its fair share of legal liability and be answerable for wrongs done to its subjects”.**

Contractual Liability:

- (1) **Constitutional position:- The contractual liability of the Union of India and States is recognised by the Constitution A. 294, 298, 299, 300.**
- (2) **A. 298 - expressly provides that the executive powers of union and of each State shall extend to the carrying on any trade, business and the acquisition holding and disposal of property and the making of Contracts for any purpose.**
- (3) **A. 299(1) - mode of manner execution of such contracts, —**

All Contracts — in the name of President/ Governor.

Requirements:—

A. 299 lays down the following conditions and requirements:—

- (i) All contracts must be expressed to be made by the President/Governor.**
- (ii) All Contracts are to be executed by such persons and in such manner as President/Governor directs.**
- (iii) Contracts executed - on behalf of President/ Governor.**

(1) A Contract to be valid under article 299(1) must be in writing. The words “expressed to be made and executed clearly shows that - There must be formal written contract executed by the duly authorised person”.

(Karamshi Jethabhai vs. the State of Bombay, AIR 1964 SC 1714)

(2) Union of India vs. Rallia Ram, AIR 1963 SC 1685

The words “expressed” and “executed” have not been literally and technically construed -

- Correspondence - valid contract**
- Complex legal formalities avoided**
- Union of India vs. N.K. (P) Ltd., AIR 1972 SC 915 - same view reiterated by Supreme Court - Director authorised but signed by Secretary Railway Board - SC held that Contract not valid.**
- Contract not signed by authorised officer - not binding.**

(3) D.G. Factory vs. State of Rajasthan, AIR 1971 SC 141

The contract must be executed on behalf of the President / Governor.

- (i) Contract was entered into by a Contractor and the Government.**
- (ii) Signed by I.G. Police - without stating that the agreement was executed "on behalf of the Governor".**
- (iii) In suit for damages filed by the Contractor for Breach of Contract the SC held that - the provisions of A. 299(1) were not complied with and the contract was not enforceable.**

Article 299 - Contracts:—

- (1) All contracts made in the exercise of the executive power of the Union or of a State shall be expressed to be made by the President, or by the Governor of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor by such persons and in such manner as he may direct or authorise.**
- (2) Neither the President nor the Governor shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in**

force, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

The position resulting from article 299 can be stated in this form:—

- (a) Government contracts must be expressed as to be made by the President or the Governor.
- (b) They shall be executed by the competent person and in the prescribed manner.
- (c) If the above requirements are not complied with—
 - (i) Government is not bound by the Contract, because article 299 is mandatory;
 - (ii) the officer executing the contract would be personally bound;
 - (iii) the Government, however, if it enjoys the benefit of performance by the other party to the contract, would be bound to give recompose on the principle of *quantum merit* or *quantum valebat* (service or goods received). This is on quasi-contract (sections 65 and 70 of the Indian Contract Act, 1872).
 - (iv) Besides this, the doctrine of promissory estoppel may apply on the facts.
- (d) In any case, the President or the Governor is not personally liable on the Contract.

Following are the important decisions supporting the above proposition:—

- (i) *State of West Bengal v/c. B.K. Mondal*, AIR 1962 SC 779 (Article 299 is mandatory).
- (ii) *Karamshi v/c. State of Bombay*, AIR 1964 SC 1714 (Person executing must be authorised to enter into the control).
- (iii) *Union of India v/c. Rallia Ram*, AIR 1963 SC 1985 (Tender and acceptance).
- (iv) *Bihar Co-op. Society v/c. Siphai*, AIR 1977 SC 2149 (Quantum merit).
- (v) *M.P. Sugar Mills v/c. State of Uttar Pradesh*, AIR 1979 SC 627 (Promissory estoppel).
- (vi) *New Marine Coal Co. v/c. Union of India*, AIR 1964 SC 152.

The freedom of the Government to enter into business with anybody it likes is subject to the condition of reason and fair play as well as public interest; *Mahabir Auto v/c. Indian Oil Corporation Ltd.*, AIR 1990 SC 1031: (1990) 3 SCC 752: (1990) 2 SCR 69.

BIBLIOGRAPHY

- 1. The Constitution of India by P.M. Bakshi (13th Edition).**
- 2. Constitutional Law of India by Dr. Subhash C. Kashyap.**
- 3. The Commentary on the Constitution of India by D.D. Basu.**
- 4. The Constitutional Law of India by H. M. Seervai.**
- 5. Indian Constitutional Law by Prof. M.P. Jain.**

BIO-DATA

Full Name	Dr. ANANT NAMDEORAO KALSE	
Office held and assumption of office	Principal Secretary ; Maharashtra Legislature Secretariat and Secretary ; Commonwealth Parliamentary Association (CPA), Maharashtra Branch.	
Education	B.Sc., LL.M., Ph.D. (Law), Mumbai	
Career (in outline only)	1979-1981	- Advocate, District and Sessions Court, Aurangabad.
	1981-2003	- Joined Maharashtra Legislature Secretariat; served in various capacities.
	15 July 2003	- Secretary
	2 March 2007	- Principal Secretary
Conferences, Seminars attended / visits abroad	* 2000, Hyderabad * 2001, Chandigarh * 2004, Kolkata * 2005, Raipur * 2007, Thiruvananthapuram * February, 2010, Bhopal * June, 2010, Srinagar * September, 2011, Jaipur	Conferences of Presiding Officers and Secretaries of Legislative Bodies in India.

	<p>* February 2015, Lucknow</p> <p>* January 2016, Gujarat 2001, New Delhi</p> <p>All India Conference of Presiding Officers, Chief Ministers, Ministers of Parliamentary Affairs, Leaders and Whips of Parties on 'Discipline and Decorum in Parliament and State Legislatures'.</p> <p>Australia, New Zealand, Singapore, U.K., France, Italy, Belgium, Holland, Switzerland, Geneva (United Nations Office)</p> <p>Parliamentary Study Tour</p>
<p>Academic Information</p>	<p>2006, Nigeria</p> <p>2015, Goa</p> <p>2016, New Delhi</p> <p>* 52nd CPA Conference</p> <p>* 5th India Region CPA Conference</p> <p>* National Women Legislators Conference</p> <p>Delivered lectures on Parliamentary Practice and Procedure, Constitution of India, Administrative Law and Human Rights, International Law, Law of Torts, Interpretation of Statutes, Feministic Jurisprudence.</p>

	<p><u>Visiting Faculty :—</u></p> <ol style="list-style-type: none"> (1) Mumbai University Post Graduate Law Department. (2) SNTD University Post Graduate Law Department. (3) Government Law College, Mumbai. (4) K. C. Law College, Mumbai. (5) Yashwantrao Chavan Academy of Development Administration Institute (YASHADA) Pune. (6) Indian Institute of Public Administration Mantralaya, Mumbai. (7) Returning Officer for the Biennial Elections to the Council of States (Rajya Sabha) and Maharashtra Legislative Council since, 1992. (8) Maharashtra Judicial Academy and Indian Mediation Centre and Training Institute, Uttan, Bhayander (W.), Dist. Thane.
<p>Books / Articles Published</p>	<ol style="list-style-type: none"> (1) Parliamentary Practice and Procedure with special reference to Maharashtra Legislature. (2) Law Making Process-An Introduction. (3) Legislative Procedure and Parliamentary Privileges-A Brief Overview. (4) An outline of Comparative Analysis of the Leading Constitutions of the world with special reference to Indian Constitution. (5) Nagpur Session - Myth and Reality - An overview.

	<p>(6) Dr. Babasaheb Ambedkar Speech before the Constituent Assembly of India dated Thursday, 4th November 1948-Compilation.</p> <p>(7) संत साहित्य व कायदा-सुव्यवस्था.</p> <p>(8) Salient Features of Constitution of India and Financial Business - An Overview.</p> <p>(9) Parliamentary Proceeding - A Brief Overview.</p> <p>(10) संसदीय कामकाज पद्धती व भारतीय लोकशाहीचे महत्त्व.</p> <p>(11) Salient features of Constitution of India and Contribution of State Legislature in the development of State and its achievements.</p> <p>(12) संसदीय लोकशाहीचे वैशिष्ट्ये व विधिमंडळाचे कामकाज.</p> <p>(13) समिती पद्धती, संसदीय कामकाजाचा आत्मा.</p> <p>(14) संसदीय विशेषाधिकार : एक दृष्टीक्षेप.</p> <p>(15) Law of Parliamentary Privileges (With Special reference to Maharashtra Legislature).</p> <p>(16) Pandit Jawaharlal Nehru—An Architect of Parliamentary Democracy in India at Nagpur University.</p> <p>(17) डॉ. बाबासाहेब आंबेडकर यांनी भारताच्या घटना समितीसमोर गुरुवार, दिनांक ४ नोव्हेंबर १९४८ रोजी केलेले भाषण.</p> <p>(18) Principles of Indian Constitutional Law and Legislative Functioning—A Brief Overview.</p> <p>(19) भारतीय संविधानाची तौलानिक वैशिष्ट्ये व विधिमंडळ कामकाज.</p> <p>(20) Bill to Law—An Overview</p> <p>(21) पक्षांतर विरोधी कायदा-उद्देश आणि वास्तव.</p>
--	---

	<p>(22) Financial Control : Comptroller and Auditor General of India.</p> <p>(23) Role and Functions of Upper House.</p> <p>(24) Judicial Activism and Basic Structure Theory–Brief Overview.</p> <p>(25) Concept of Equality in the Constitution of India–A Brief Analysis.</p> <p>(26) Freedom of Speech and Expression -A Brief Overview.</p> <p>(27) Life and Personal Liberty : A precious Fundamental Right – Brief Overview.</p> <p>(28) The Constitutional System of the United States of America – A Bird eye view.</p> <p>(29) Principles of Indian Constitutional Law and Legislative Functioning.</p> <p>(30) Nature, Scope, Definition of Administrative Law, Rule of Law and Doctrine of Separation of Powers – A Brief Compilation.</p> <p>(31) Delegated Legislation and Control over Delegated Legislation – A Brief Overview.</p> <p>(32) Principles of Natural Justice – A Brief Overview.</p> <p>(33) Salient Features of the Constitution of India (Including Historical Genesis and Making of the Constitution)– A Broad Overview.</p> <p>(34) Delegated Legislation and Civil Service – A Brief Overview.</p> <p>(35) Federalism (With reference to Indian Federal System).</p> <p>(36) Public Interest Litigation (PIL) – A Brief Overview.</p>
--	---

NOTES

NOTES

NOTES