

COVID-19: An overview

Deepa Muduli

Research Scholar, Berhampur University, Odisha, India

Abstract

It is a very peculiar time for human being fighting with an invisible enemy, covid-19 Coronavirus. It observed that Corona virus started in the Wuhan of China and now firstly spreading all over the world. The Indian government announced nationwide lockdown to control the spread of growing pandemic of covid-19 Coronavirus and it proved effective measure, but it also revealed domestic violence and the complexity to women and also many other criminal acts. The economic condition of India also influence badly. The provision of force majeure event arises due to covid-19 in contract and insurance law. The occurrence of force majeure event protects the party from the liability of failing to perform a contractual obligation. Indian Government taking all measures to control the spread of the growing pandemic of covid-19. The role of The National Security Act, 1980 would not be overlooked.

Keywords: Covid-19, Coronavirus, pandemic, lockdown, force majeure, national disaster

Introduction

Covid-19 Coronavirus now became a war in worldwide. Where the people ought not to have to get tired or take rest in this war. The people have to emerge victorious. Not only India but also whole world has only an objective and slogan to win against corona virus deadly disease. Whole world now set a variety of new techniques in cope with corona virus pandemic. In this war where whole affected states come together and fight against covid-19. World Health Organisation has declared Covid-19 as pandemic ^[1]. The official name of corona virus disease is Severe Acute Respiratory Syndrome Coronavirus 2(SARS-CoV-2) ^[2]. The first cases of new Coronavirus (COVID-19) come out in Wuhan of China in December 2019.now it has spread all most all countries of the world by April 2020, the number of confirmed cases and deaths reached in lakhs, there are many countries like Italy, USA, UK, Spain etc live in awfully precarious condition ^[3].

COVID-19 and Indian Laws

Being India is a welfare state it is duty of the state to secure the security of the people, to ensure the stability of the state, to achieve the well-being of the society, to foment the wounded feelings of the people and maintain law and order, peace and tranquility in the society. The constitution first gives priority towards health, education, law and order especially fundamental rights. In the wake up covid-19 all the above rights are challenged. Lockdown all over the state due to covid-19 arise the challenge before the Government. There are several incidence of attack on the police, medical staff and doctors. It is responsibility of the government that to implement strict rules to save the life of such people. The outbreak and the rapid spread of covid-19 the economic condition of the country is unspeakable because of the contracting parties fails to perform their obligations. In this circumstance, it is important to find out if covid-19 will be considered as "force majeure" event. Force majeure a French phrase meaning "Superior force" in Latin term "chance occurrence" it means unavoidable accident ^[4].

Force majeure is the current situation is controlled by the law governing by the Indian Contract Act, 1872. The intention of the clause is to save the performing party from consequences of something over which it has no control. It is human initiated action that cannot be predicted or controlled by the party to the contract. It is a common clause in contract that essentially forces both parties from liability an extraordinary event or circumstances beyond the control of the states such as war, riot, strike, crime epidemic. Force majeure is basically a clause for unpredicted circumstances that makes the contract null and invalid. To bring the clause under force majeure there are one thing is required that is, in the contract the provisions of force majeure event must be expressly includes a pandemic, that means inclusions of pandemic to the list of force majeure events will provide clarity as to whether covid-19 outbreak would generate a force majeure clause in a contract. If the contract does not include a force majeure clause, the affected party could claim relief under Section 56 of the Indian Contract Act, 1872.

Force majeure word is embodied under sections 56 and 32 of the Indian Contract Act, 1872. Due to covid-19 pandemic, it is likely that performance under any contract will be delayed of some places is even cancelled. The Act states that "A contract to do an act which, after the contract is made, becomes impossible, or, by reason some event which the promisor could not prevent becomes void when the act becomes impossible ^[5]" When the performance of the contract becomes impossible the purpose which the parties have in mind is frustrated, because of supervening event, it is also known as "doctrine of frustration". Section 32 the Indian Contract Act, 1872, contingent contracts depend on the happening of an uncertain future event be enforce until the event has happened. If the event becomes impossible, such contract becomes void ^[6]. Force majeure events are an exception to what would otherwise amount to a breach of contract. Therefore, it is necessary to verify, on the basis of practical condition, if the non-fulfillment of any contract ought to be exempt due to covid-19 pandemic and

not being qualified as a breach of contract. According to the legal term it is an event described as “vis major” or “Act of God” are unpredictable natural events such as hurricane, flood, earthquake, volcanic, eruption etc. All the above situations prevent one or both the parties from liability.

Generally force majeure events include an act of God or natural disasters, epidemics, pandemics etc. The questions arise here that will a life insurance policy cover the death of a policy holder due to Coronavirus and also will a policy holder be able to get a life insurance policy after contracting Coronavirus? Due to covid-19 pandemic the life insurance companies announce recently that the “force majeure” clause will not be applicable in any death claim of covid-19, because the companies cannot plan for present situation. However many insurances do not have this clause in their contract and everyone will cover death cause due to covid-19^[7].

The outbreak of the covid-19 pandemic has not only created a slothful other situation on economy of India but the lockdown and imposition of section 144 of the Code of Criminal Procedure, 1974 creates many problems. The immense crisis is being seen on business world and it seized all daily works especially affects the poor, daily wage worker and middle class people.

The Government imposing forced lockdown many countries have been seen mental health problem among the people. Many countries around the world have imposed lockdown to stop the spread of covid-19. Lockdown proved effective measure for battling the pandemic, but they have also discovered gender inequalities and the threats to women across the world. Due to covid-19 pandemic now not only increase domestic violence and child abuse^[8]. According to the centers for Disease Control and Prevention observed that one in three women and one in four men in the USA have experienced violence from an intimate partner. Statistics says that about 41% of female intimate partner violence survivors and 14% of male intimate partner violence survivors sustain a physical injury from their partners, and about one in six homicide victims are killed by their intimate partner. Domestic violence can also show the way to adverse health and mental health outcomes, including a higher risk of chronic disease, depression, post-traumatic stress disorder, and risky sexual and substance use behaviors^[9].

Coronavirus pandemic is not come alone, it comes with numerous troubles. It also threatened the security of people of India. There are other laws which would be proficient to control law and order, but the role of the National Security Act, 1980 could not be overlooked! The name of the Act itself says that it is the law meant for the national security and law and order only. The Act has power to make order detaining certain persons. National Security Act confers extra-judicial power to the state Government or the central Government to detention of any person in any matter which is related with national security and public order^[10]. Explanation, says that no order of detention shall be made under this Act on any ground on which an order of detention may be made under this Act^[11]. The Government may pass the detention order and may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973(2 of 1974). The Government can also take any person custody to maintain the supply and services of essential commodities. The Government Can detained for a

maximum period of twelve months^[12]. The Act empowers the authority in pursuance of a detention order, such authority when making the order need not to announce or communicate the grounds of order of detention to such person in exceptional circumstances for 10 days. Further sub clause 2 requires the authority not to communicate facts which it considers to be against the public interest to communicate^[13]. The question arise here that, what is the difference between regular course of law and the National Security Act, 1980. Arrest and imprisonment are both legal processes. Arrest means government takes away personal liberty otherwise recognized as a fundamental right and guaranteed as such to all persons. Generally, when a police officer or other person arresting any person without warrant shall forthwith communicate to him all particulars of the offence for which he is arrested or other grounds for such arrest. Article 21 of the Indian constitution provides that “No person shall be deprived of his life or personal liberty except according to proceeding established by law”. There are a number of measures have been directed by the court to be ensured while making an arrest by the arresting officer. There are various rights of the arrested person such as, right to know the grounds of his arrest^[14]. Right to know that he can be released on bail^[15]. Right to be produced before a magistrate without any delay^[16]. Right not to be detained for more than 24 hours without judicial scrutiny^[17]. The Indian constitution stipulates no police officer can arrest any person any person without informing the accused the ground of his arrest and the right to choose and elect his own lawyer to defend him in the court of law^[18]. On the other hand the remedies relating to detention of the are not available to a person arrest under the National Security Act, 1980. A person can be kept in custody for up to five days to ten days, but without disclosing any grounds of his arrest beyond ten days cannot be exceeded in any circumstances. The government can withhold the information which it considers to be not in favor of the public interest to disclose.

The Epidemic Diseases Act, 1879, which especially dealt with preventing transmission of epidemic Coronavirus. According to this Act, when an outbreak of any dangerous epidemic disease the Act empowers to state government to take special measures through prescribed regulations as to dangerous disease^[19]. The central government when satisfied that India threatened with or outbreak of any dangerous disease and that the ordinary provisions of the law is insufficient to prevent such disease or spread of such epidemic the central government may take measure to prescribed the regulations and on disobeying of such regulation that person shall be punishable under section 188 of The Indian Penal Code, 1860.

It is seen that lockdown has brought unbreakable chain of violence of law. Today social media plays vital role to spread news that may be true or false. When the people living in panic at that time the spreading of fake news working like oil to the fire. On internet, there are various you tube videos spreading false news by which some unsocial people taking advantage of the ignorance of the people. After many notifications on social distancing the people do not follow the order of courts and public authorities. Here of this crucial time a number of provisions of the Indian Penal code are significant to control the continuous offences committed by the people. Where any lawful order duly promulgated by public servant empowered to promulgate such order, such person have knowledge of

the order which may be general or special, disobedience of such order causes or tends to cause danger to human life, health or safety, a riot of affray, that person shall be punished with imprisonment for term which may extend to six months, or with fine which may extend to one thousand rupees or with both. A few people they are not interested to testing of his health in relation to Covid-19 Coronavirus even after having symptoms and not following quarantine order of the government, such people shall be punishable under this section.

Section 268 of the IPC, 1860, deals with of offences affecting the public health, safety, convenience, decency and moral. Nuisance means anything which causes inconvenience anyone or damage. Any person does an act or is guilty of an act or omission and that omission causes any common injury, danger at annoyance to the person who may have occasion to use any public right. If the people gather at one place and not follow social distancing, this act is amount to public nuisance and it is likely to cause danger to public. Whoever causes any act which is likely to spread infectious disease in the society, he shall be punished under this code ^[20] and if any person malignantly does any act which is spread the infection and disease dangerous to life he shall be punished ^[21]. Under section 271, disobedience to quarantine rule is punishable. Sections 332 and 353 both are almost similar in nature, section 332 says that voluntarily causes hurt to a public servant while he is discharging or attempting or in consequences of his duty as public servant and with an intention to prevent or deter that person or any other public servant from discharging his duty as such public servant, such person shall be punishable under the code. Section 353, the difference being that under this section hurt is caused to the public servant while under section 353 there is an assault or criminal force for the same purpose ^[22].

The Disaster Management Act, 2005. The object of the Act to manage disaster preparation of mitigation, capacity building etc. The natural calamity like earthquake, cyclone is not only disaster, to address the current epidemic outbreak, the central government has included the Covid-19 outbreak as "National Disaster" as a critical medical condition or pandemic situation ^[23]. As per Section 10 sub section (2) clause (1) the Act the Ministry of Health and Family Welfare regulated the sale of surgical masks, hand sanitizers and gloves in public interest and added them as essential goods under the Essential Commodity Act, 1955, to prevent hoarding and black-marketing ^[24].

Conclusion

Nobody will deny that the outbreak of Covid-19 has caused and will be framer of many socio economic problems. The lockdown due to Covid-19 has brought the life to a standstill, but the government making all effort that there is no difficulty in daily life. To tackle Coronavirus and to prevent the transmission of hazards epidemic diseases the government has taken very bold steps to won this battle of Covid-19. No doubt covid-19 is an incident of harrowing tale for us but it healing the ecosystem. The nationwide lockdown fight Coronavirus has improved the water quality of rivers; surely it has to be good for the environment. It is only hoped that very soon the world come out of hit by the covid-19.

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