

## LAW REGULATE INFRASTRUCTURE SECTOR IN INDIA: A CRITICAL STUDY

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### INTRODUCTION

Infrastructure is the base on which the economic success of the country is built. It is like a father to the economy and in India, the government is doing hard work for achieving the best of it is palpable from its committed efforts in this direction. There were days where we saw Noticeable failure were evident in lack of water, power in most of the part of India, also poor road conditions and cargo handling which causes delays at an airport in India. These entire sectors were used to handle by the government organization.

In the present scenario, the infrastructure sector in India has opened an economy market where the private as well foreign investors have also played an important role in attaining planned and consistence economy development. Because of the contribution of the private sector major change has been seen in the telecommunication sector as it develops very strong and the major reason is that it is controlled by the private sector.

The infrastructure sectors administer by statutes and these statues help the participation of the private sector. Commonly private investors get permission through a grant of licenses or through a contractual relationship. The part played by private investors in the infrastructure sector is really helping in increasing the employment, income generation in the country.

India infrastructure swiftly expanded over last one decade for example; “Current annual investment for 2016 -2020 is anticipated at 118 USD billion”, By 2025, based on the project that already been started, electricity generation capacity will almost double and also the highways and metro will also increase by 1.5 and 6 times respectively.

The legal structure within which the infrastructure sectors function has been explained, in brief hereunder;

**Airports:** The Government Policy on Airport Infrastructure, 1997 observed and prepared a comprehensive plan for progress and upgrade of all the airports by the help of the controlling agency following the outline of the practices of the International Aviation Organization. The policy acknowledges the need for private participation for the progress of airport infrastructure. Establishment of private airports and leasing out airports to the private organizations is now permitted subject to prior approval of the central government.

Airports are governed by Airport Authority of Indian Act, 1994, the Aircraft rules 1937 and the Aircraft act 1934. All these acts allow private participation to contribute in the airport through the issuance of license other than owned by the Central Government and formation of joint ventures with the Airports Authority of India. With the help of the Airport Authority

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of India Act, 1994 in 2003 India amended the act so that the private investors can participate in the progress of Airport infrastructure.

There are 122 airports which are regulated by the Airport Authority of India. The cities Bangalore, Delhi, Hyderabad, Kochi, and Mumbai are governed by privately or joint-venture operated airports. Airports in India handled 295 million passengers in 2017.

The government in a joint venture with private sector preparing two big plans for the civil aviation policy includes “corporatization of the air traffic control system” and “Greenfield airport”. All these efforts and plans will affect the airfare and make it more comfortable for the Travellers.

Greenfield airport project is the one where a private organization or a joint venture facilitate operate the new airport facilities without the prior approval of the Government and entered into Build-Own-transfer (BOT), Build-Own-Operate(BOO) Contracts.

*Loop whole:* All the projects related to airport infrastructure development maximum attention is on comforting the travelling experience for the passengers. But the cargo facilities have been neglected in the entire recent project. There were many complaints against the cargo facilities and ground handling but yet there is no planning to correct this error in any plan. The government and all the private sector dealing with this sector need to establish separate cargo facilities that include storage, ground handling, and loading facilities as air cargo is expected to grow in recent years.

**Roads and Highways:** India has widespread road network of 3.3 million kilometres. This type of network is the second largest in the world and it is governed by National Highway Act 1956. The roads in India carries 65% of the goods (Trucks) and 80% of passenger traffic, the quality and level of the roads not at all in good conditions as Indian roads are full with Pit. This is the sector which required maximum attention for development. Because of this Government of India spends nearly US \$ 4 billion annually on road development, and persuade private and foreign investors in this sector. Most of the private investors participate in this sector through bidding or by construction contracts.

The makers or owners have the permission to collect tolls on roads that are part of the National Highway Development Plan, India's largest road project and in this case government does not interfere in this matter. But the National Highway Authority who is a government organization has the power to look all the matters related to this sector like- development, maintenance, and management; we can say that it is the apex government body in this sector. This body grants and conducts all the competitive biddings and construction contracts

*Loop whole:* To increase the participation of private investors in this sector the government has initiated many schemes like; approved 100% income tax exclusion for a period of 10 years for all road infrastructure development assignment also the NHAI considers gap funding for marginal projects. But after granting all schemes to the developers, most of them are not doing their duties properly and it becomes evident when we see the conditions of the highways and roads in our country. Maximum roads of India have so many pits, roads are in bad condition, levelling is not done properly etc. and because of all these major road

accidents happen in our country. If we see the statistics from 2013-2016 total 1051.3 road accidents happened during these years in I

**Telecommunication:** The Telecom Regulatory Authority of India Act, 1997 is the prevailing statute applicable to the telecom sector of India. The Telecom Regulatory Authority of India (TRAI) is the governing statute that regulates telecom and internet services in the entire country. This main regulating body which regulates and explain how everything in this sector will work like: powers, the function of the authority, how the appellate tribunal conducts its proceedings. This is the only sector in which we can see the equal contribution of both the sectors private and public entities. The government gave permission for 100% FDI in telecom equipment manufacturing and 100% FDI for various other telecom services, so that well-organized, competent and resourceful environment can be established in the market for the growth of this sector.

*Loop whole:* This is the only sector where we can see the cut to cut competition between the private sectors entities, but the main problem is all the providers need to improve their IT and connectivity structure, also make sure that all the services should be provided in a very affordable prices. The main problem is the security issue because of new threats as the privacy of the customers is at risk. All the providers need to ensure that they are taking all the precautions on their security systems while giving the services to the customers and the privacy should be on top.

**Railway:** Indian Railways is one of the world largest railway networks and manages more than 64,000 Km of railway tracks. The complete control like making a policy taking an important decision against the railway sector all have done by the Railway Ministry. They also have their separate budget for the maintenance of this sector. It also regulates all other matters like engineering, traffic issues, staff matters etc. As Indian railways have the domination in carrying goods and passengers at very cheap rates but there are many problems related to service which provided by the railway department during the journey and related to rail tracks.

Additionally, the government of India has strategized and made a plan regarding boosting the speed of the train and doing changes in existing network railway tracks for meeting the present requirement. Till now the government has a monopoly in this sector, but now this market is also opened for private sectors. Now they can also contribute to the development of the infrastructure of this sector. Almost 22 railways station has given to the private sector under PPPs scheme (Public-private partnership). Indian railway also offered 500 acres land to the private investors for the development of railways station, tracks, and transport-related projects.

*Loop whole:* Now day's government is planning to introduce Bullet train in India but having a bullet train means heavy operational cost, maintenance will also be very costly and need to change alignment too. This project will take a lot of time and this project can be stopped if any change happens in the Government. The new government might be upset this project. Many passengers have also complained about the services offered during the journey is not up to the mark. The food which offered in the train is not at all healthy because of that food

many passengers were fell sick too. So the regulating authority needs to change their pattern so that they can fulfil the requirement of their passengers and gave them a pleasant and healthy journey.

## **LEGAL STRUCTURE**

Under the constitution of India the powers are distributed between Centre and State. The parliament has the authority to make laws on some items like; National Highways and the State legislature have the power to make the laws on an item such as water supply.

Power distribution on legislative powers related to infrastructure Sector is as follows:

Parliament has the power to make laws: Railway, National highway, Telecommunication, Power, Ports, and Airports etc.

Developing the infrastructure of these sectors are the responsibility of the Centre. For proper regulations of these sectors, the centre has made many statutory bodies which regulate and administer each every sector. However, some statutory bodies are also made headed by the private entities, for example, Indian Road Congress Registered Society made for the development of the Road Sector for making new schemes, planning in this sector.

**State Level:** The legislature has the power to make laws on the items which are as follows: Roads, Bridges, Water supply, water storage, Land administration, revenue, and tenure.

In every state, there are many local authorities, Municipal Corporation whose responsibility is to do local self-government or village administer. The state may by law provide municipalities with the functions and implementations of assured items within which their jurisdiction including:

- Town planning
- Construction of buildings
- Water supply for the commercial, domestic and industrial purpose
- Distribution of electricity
- Construction of Roads and buildings

## **CONCLUSION**

A short time ago most Indian infrastructure was governed by the Government. On the other hand, the participation of the private entities in the development of the infrastructure has given a new shape to this sector. Many infrastructure schemes and plan are governed by concession agreements and contracts between the government and private entities. In all these agreements every detail has mentioned like a tariff, planning, performance standards, rules etc.

With the help of the private entities, many sectors are doing well and fulfilling the requirements of the public by giving them developed infrastructure, services etc. But because of the government change, it affects in a negative way. The Government should establish

regulatory entities that will remain unaffected by the government change in the country and work without any interference.

While establishing the authorities the main motto of all the regulators to work in such a manner so that they can provide excellent facilities services to the people, also ensure good and healthy high quality of service. But these all can happen if these authorities work independently, transparently and report directly to the Government and it should also be legally accountable for the public through judicial review.