



Article 299 of the Constitution: Government Contracts

For Prelims: Article 299 of the Constitution, [Supreme Court of India](#), Government contracts

For Mains: Role of Article 299 in safeguarding public funds, Provisions of Article 299 regarding government contracts

Why in News?

The [Supreme Court \(SC\) of India](#) recently clarified the legal provisions surrounding **government contracts made under the President's name**.

- In a case involving **Glock Asia-Pacific Limited and the Centre**, the court ruled that contracts entered into in the name of the **President of India** cannot grant immunity from statutory prescriptions.
- The ruling sheds light on the interpretation of **Article 299 of the Constitution** and its implications for government contracts.

What are Government Contracts?

- **About:**
 - Government contracts are **contracts undertaken by the government** for various purposes such as construction, management, maintenance, repairs, manpower supply, IT-related projects, etc.
 - Government contracts involve the **central government or a state government**, or a **government body as one party** and a **private individual or entity as the other party**.
 - Government contracts have to comply with certain formalities and safeguards as **prescribed by Article 299** of the Constitution of India.
 - Government contracts are **subject to public scrutiny and accountability** and are governed by the **principles of fairness, transparency, competitiveness, and non-discrimination**.
- **Requirements for Government Contracts:**
 - The contract must be expressed to be made by the Governor or the President.
 - It must be executed in writing.
 - The execution should be done by persons and in a manner directed or authorized by the [Governor](#) or the **President**.

What is Article 299 of the Constitution?

- **About:**
 - Article 299 of the Constitution deals with the **manner and form of contracts made by or on behalf of the government of India or any state government**.
- **Origin:**
 - The government had been entering into contracts even in the pre-independence era.

- The **Crown Proceedings Act of 1947** played a role in shaping Article 299.
 - The Crown Proceedings Act specified that the **Crown could not be sued in court for a contract it entered.**
- **Purpose and Object:**
 - Article 299 outlines the manner in which contracts made in the exercise of the executive power of the Union or a State shall be expressed and executed.
 - It aims to establish a **specific procedure to safeguard public funds and prevent unauthorized or illegitimate contracts.**
- **Expression and Execution:**
 - According to Article 299(1), contracts must be **expressed in writing and executed by a person** duly authorized by the **President or the Governor on their behalf.**
- **Immunity of the President/Governor:**
 - While Article 299(2) states that the **President or the Governor cannot be personally held liable for contracts**, it does not grant immunity to the government from the legal provisions of the contract.
 - The government (Union or states) in India **can be sued for torts (civil wrongs) committed by its officials.**

What is the SC Court's Ruling?

- **Case Background:**
 - Glock Asia-Pacific Limited filed an application against the Centre regarding the **appointment of an arbitrator in a tender-related dispute.**
 - The government objected to the appointment of a retired Delhi High Court judge as the arbitrator, citing a tender condition that required an officer from the Law Ministry to act as the arbitrator.
- **Court's Interpretation:**
 - The Supreme Court held that the arbitration clause, allowing a government officer to resolve the dispute as an arbitrator, conflicted with **Section 12(5) of the Arbitration and Conciliation Act, 1996.**
- **Relevance of Article 299:**
 - The court emphasized that Article 299 only pertains to the formalities of binding the government with contractual liability, not the substantive laws governing contractual liability.

What are the Other Judgements Related to Article 299?

- **State of Bihar v Majeed (1954):**
 - SC ruled that a Government Contract has to comply with the **provisions of Article 299 in addition to the requirements of the Indian Contract Act**, such as offer, acceptance, and consideration.
 - The contractual liability of the **Central or State Government is the same as that of any individual** under the ordinary law of contract, subject to the formalities prescribed by Article 299.
- **Mrs. Aliakutty Paul vs The State of Kerala and Ors (1995):**
 - A tender of the contract for construction of a bridge was accepted by the Executive Engineer, but he **did not sign it in the name of the Governor**, it cannot be said that there is a valid contract in conformity with **Article 299 of the Constitution.**
 - The decision explains the rationale and scope of Article 299 of the Constitution and emphasizes that its provisions are enacted for safeguarding the government against unauthorized contracts.

[Source: IE](#)

