 DOI: https://doij.org/10.10000/IJLMH.116811

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 1

2024

Agency in Contract with reference to McDonald's in India

Harshita Singh Patel[1]

Abstract

India, also known as Bharat, is a Union of States. The Indian Contract Act brings within its ambit the contractual rights that have been granted to the citizens of India. It endows rights, duties and obligations on the contracting parties to help them to successfully conclude business from everyday life transactions to evidencing the businesses of multi-national companies which also protects and enforces against the parties to the agreement. The essence of the Indian Contract has been modelled on that of the English Common Law. It also defines laws relating to Contracts, Sale of movable properties, Indemnity, Guarantee, Agency, Partnership and Bailment. Agency defined under INDIAN CONTRACT ACT, 1872 explains the legal relationship between the principal and agent. Suppose A, owns a prominent food restaurant in Lucknow, famous for its healthy Lettuce Burgers, who engages B, a renowned Chef, works as an agent for A's Company. But B appoints C, a third person for making the Lettuce Burgers. Result of which, people started having serious health issues after eating that Burger. Now, the Question arises, Is the appointment of C on behalf of B stands valid? And whether A will be held liable for the Acts of C? This paper tries to analyse and investigate upon What Rights and Duties does the Agents possess in such Contractual Agreements? The Author shall also be dealing with the issues and challenges faced with respect to Indian Laws.

Keywords: *Indian Contract Act, 1872, Agency, McDonald's, Agent, Principal, Franchise Agreement.*

I. Introduction

In India, the relationship between agent and principal is contractual in nature and thus, its regulated through the terms and conditions of the contract between them. In such form of contract, there is the existence of legal relationships between two individuals in which one person performs activities on behalf of another person. Contract of Agency is based upon Latin Maxim – *"Qui Facit Alium Facit Perse"* which means one who uses other for getting the work done then he will be responsible for his acts. This maxim propounds the doctrine of Vicarious Liability (Representative Liability) which is again based upon cordial principal 'Respondent

[1] Author is a student at University of Lucknow, India.

 [ISSN 2581-5369]

Superior' which means, Let the superior be responsible. According to S.182[2], An "agent" is a person employed to do any act for another, or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called the "principal". The emphasis is on the power of the agent to represent his principal in dealings with the third persons. But the above "definition is wide enough to embrace a servant pure and simple, even a casual employee, a man who is engaged by me in the street to black my boots; but it cannot for a moment be contented that they are all to be placed in the same category."[3] Thus, what distinguishes an agent from a person appointed to do an act, is the agent's representative capacity coupled with a power to affect the legal relations of the principal with third persons. "The essence of the matter is that the principal authorised the agent to represent or act for him in bringing the principal into contractual relation with a third person."[4]

The concept of "Agency" was thus explained by RAMASWAMI J of the Madras High Court in P. Krishna Bhatta v. Mundila Ganapathi Bhatta:[5]

"In legal phraseology, every person who is not an agent. A domestic servant renders to his master a personal service; a person may till another's field or tend his flocks or work in his shop or factory or mine or may be employed upon his roads or ways; one may act for another in aiding in the performance of his legal obligations or contractual obligations of third persons. In none of these capacities, he is an agent and he is not acting for another in dealings with third person. It is only when he acts as a representative of the other in business negotiations, that is to say in creation, modification or termination of contract obligations, between that other and third persons, that he is an agent. Representative character and derivative authority may briefly be said to be the distinguishing feature of an agent."[6]

The same appears from an observation of the Supreme Court[7] to the effect that "the expression agency is used to connote the relation which exists where one person has an authority or capacity to create legal relations between a person occupying the position of principal and third parties." In National Textile Corpn Ltd v. Nareshkumar Badrikumar Jagad, the National Textile Corporation Ltd was held to be neither a Government in itself nor a department of the Government. It is only a Government company. It could not equate itself with the Central Government. It is an independent legal person. An agent merely an extended hand of the

[2] Section 182, INDIAN CONTRACT ACT,1872
[3] Kalyanji Kuwarji v Tirkaram Sheolal, AIR 1938 Nag 255.
[4] Mohesh Chandra Bosu v Radha Kishore Bhattacherrjee, (1907-08) 12 CWN 28, 32.
[5] P. Krishna Bhatta v Mundila Ganapathi Bhatta, AIR 1955 Mad 648.
[6] Avatar Singh, LAW OF CONTRACT, 1872 and SPECIFIC RELIEF
[7] Syed Abdul Khader v Rami Reddy, 1979 2 SCC 601

Principal and cannot claim independent rights.[8]

II. McDONALD'S IN INDIA: A CRITICAL ANALYSIS

The McDonald's Corporation is one of the world's largest fast-food restaurant and is well-renowned for its services towards its customers globally. The franchise restaurant was opened by the Richard and Maurice McDonald brothers in 1948, whereby they introduced the "Speedee Service System" which has now been established as a principle for fast food in a modern restaurant. In the years, McDonald's has continued to retain its position in the global market and has opened more than 36,000 locations worldwide. It has continuously shown resilience and success in its innovation and aggressive marketing. McDonald's shows success in business effectiveness through attaining its aim in its mission and vision statement. The core brand values of McDonald's include quality, service, cleanliness and value. The core values are reflected from the McDonald's outlets, the pricing of products and through their employees. The organisation is well known for its high-quality food services and convenience. As such McDonald, frequently focuses on offering high-quality food for better customer experiences rather than just offering cheap fast food which is a strategic effort known as "plan to win". McDonald's business model in terms of its growth strategies is based on franchises (successful franchising model) to reach out to more people. The successful implementation of the franchise model as one of the financial strategies helps McDonald's to have a strong cash flow position as they receive franchise fees based on a percentage of sales (Andino, 2015). Thus, McDonald's Corporation does not have that much operating cost as they have more than 90% of franchises over the world, thus cost leadership is achieved.

The strength of McDonald's India employees amounts 9,000 people including restaurant staff. But the surprise lies in its unique and intricate supply chain network which is managed by just five people across the whole country. Including the Quality Assurance people, this figure rises to just eight people who are all responsible for its efficient supply chain Indian territory.

McDonald's has no legally signed agreements with its suppliers. It is a simple „handshake relationship‟ with the suppliers. The policy with suppliers is very clear; one product-one supplier relationship. The policy has been proven as long-term relationships at every time."

SOLE DISTRIBUTION PARTNER The entire distribution of McDonalds‟ products in India is handled by Radhakrishna Foodland Pvt. Ltd, the only distribution partner. RKFL manages the four DCs and since it has a transport division, handles the truck movement in the supply-chain

[8] National Textile Corpn Ltd v Nareshkumar Badrikumar Jagad, 2011 12 SCC 695: AIR 2012 SC 264.

right through the country (Figure-2). McDonald's exhibits control on its distribution partner to meet its standards of „cold, clean and on-time delivery ‟.

As with its suppliers, McDonald's has no legally documented Service Level Agreements (SLAs) with RKFL. For distribution partner also McDonald's has set KPIs (Key Performance Indicators). The DCs are assessed on several factors like administration efficiency the total number of cases managed per man hour, warehouse efficiency, overtime as a percentage of the total number of hours worked and in the case of transportation, the number of cases handled per trip, truck utilization, etc.

Demand forecasting for long term is based on an efficient concept known as 31Q system—3 stands for the three years that the fast food chain will keep checking its plans, 1 represents the detailed forecast of the next year and Q symbolizes the quarterly monitoring of these forecasts. While preparing annual budget suppliers becomes a part of budgeting process. Usually, the restaurants give a three-day to one-week forecast to the Distribution Centre. The DC, in turn, has a three-month rolling forecast with the suppliers which enable them to plan their production schedules meticulously. With 250 restaurants scattered across the country, lead times for delivery assume critical importance. Every restaurant manager knows the exact time of arrival of each product which enables the supply chain team to work backwards to ensure timely distribution. With a maximum inventory of ten days in its system, McDonald's maintains an efficient inventory turn ratio of 36.

Food safety is another critical area for quality standard. For this Hazard Analysis Critical Control Point (HACCP) certification which ensures food quality is applicable. This is an industry level certification and is applicable on all the suppliers of the fast food chain. Apart from HACCP, there are other food safety systems like the Supplier Quality Management Systems (SQMS) and the Distributor Quality Maintenance Program (DQMP) are also in practice. For processing and manufacturing plants SQMS is applicable. The SQMS is a worldwide mandate for all McDonalds‟ suppliers and includes essentials of the HACCP control system, while also contriving several principles of its own. The DQMS audits and checks the warehouses of the chain. Auditors worldwide are also trained on its SQMS and DQMP programs. Independent auditors then audit plants and warehouses and allot scores to McDonalds‟ facilities globally to ensure highest standards.

Taste of the food products is another parameter of Quality. For this McDonald's has developed a Sensory Program. The centralized laboratory for this program is located in Hong Kong which prepares sensory experts. These personnel come both from the suppliers‟ and Quality

Assurance teams. Every batch of a food product that gets manufactured at a supplier's plant is checked by an approved sensory panel at the plant and scores are allotted to the product. Only a product with minimum score is shipped out of the factory. Other measures are also taken in the form of at random checks of outlets. Also, every quarter or half year, members of the management do a „product cutting" with key suppliers—fry a product, check its taste and allot scores—to check if the product scores are moving in the right direction northwards. And lastly, samples of the products that are manufactured in the country are shipped to the central laboratory at Hong Kong which evaluates the products.

The entire system of supply chain is powered by technology to make it smooth and effortless. Suppliers are using SAP while Distribution Centres are on RAMCO Marshall ERP with Cobra software. These systems are used to atomized upload of store orders. For assisting in day to day functions of store, technologies have been developed e.g. track sales, enables restaurants to schedule staff and send forecast orders to DCs, etc. The company is tapping the high growth opportunities with customer satisfaction criteria effectively and in this effort McDonald's added Mcdelivery, an innovative option which delivers meals to the customer's doorstep. This service has grown at stratospheric levels by more than 400 percent. Mcdelivery was first launched in Mumbai and Delhi in 2004.

(A) Franchise Agreement of McDonald's

McDonald's is a well-known food chain company which has its outlets all around the globe. It has footprints in over 100+ countries. Currently McDonald's has around 38,000 stores and serves 7 crore people every day. These numbers are huge enough to the best options when it comes to owning a restaurant as a franchise.

McDonald's and its Affiliates operate a restaurant system, which is a comprehensive system for the ongoing development, operation and maintenance of McDonald's Restaurants, and includes the Intellectual Property and other proprietary rights and processes, including the designs and colour schemes for restaurant buildings, signs, equipment layouts, formulas and specifications for certain food products, including food and beverage products designed by McDonald's as permissible to be served and sold in McDonald's Restaurants, methods of inventory, operation, control, bookkeeping and accounting and manuals covering business practices and policies that from part of standards. McDonald's and its Affiliates may add elements from the system in their sole discretion from time to time. McDonald's Restaurants have been developed for the retailing of a limited menu of uniform and quality food products, emphasizing prompt and courteous service in a clean, wholesome atmosphere that is intended to be attractive to children and families. The system is advertised widely within the United States of America and in many foreign countries McDonald's and its Affiliates hold, directly or indirectly, al rights to authorise the adoption and use of the system. The foundation of the system is compliance with the standards by McDonald's franchisees, including each of the Master Franchisee Parties and the Franchisees, and the compliance with the standards provides the basis for the valuable goodwill and wide acceptance of the system. Such compliance by each of the Master Franchisee Parties and the franchisees, the accountability of each of the Master Franchisee Parties for its performance hereunder and the establishment and maintenance by Master Franchisee of a close working relationship with McDonald's in the operation of the Master Franchise Business together constitute the essence of this Agreement without limiting McDonald's rights hereunder, McDonald's will consider Master Franchise's recommendations regarding regional tastes and preferences and will work with Master Franchisee to accommodate such tastes and preferences to the extent that McDonald's reasonably determines, in its sole discretion, that such actions are consistent with the system.

(B) Issues Raised

McDonald's revolutionized fast food in India, opening the doors for other multinational food businesses, setting a strong example for local restaurant chains and making the burger a mass-market product instead of one for the English-speaking elite. But the headline-grabbing conflict between the US based hamburger chain and its long-time local partner in north and east India, Connaught Plaza Restaurants Pvt. Ltd. (CPRL), has escalated to such a degree that peace seems impossible.

The first issue raised was in the case of McDonald's India Private Limited v Vikram Bakshi and Others that Vikram Bakshi was expelled from his office on conditions: Firstly, that he was not faithful and did not devote substantial time to the company. Secondly, he was not qualified to be the MD of the joint venture.

The second issue raised was regarding the food quality and safety standards of McDonald's. The author shall be dealing with the above mentioned issues in detail further in the paper.

(C) McDonald's India Pvt Ltd: Case Analysis

There are three persons involved in this case, McDonald's India Private Limited v Vikram Bakshi and Others[9] particularly Vikram Bakshi, McDonald's India Private Limited, Cannaught Plaza Restaurants Limited. In 1995 McDonald's India Private Limited and Connaught Plaza

[9] McDonald's India Private Limited v. Vikram Bakshi, AIR 2016 DEL 3531

Restaurants Limited had a joint venture in such a way that 50 per cent of equity share was with McDonald's India Private Limited and 50 per cent equity shares with Connaught Plaza Restaurants Limited. Vikram Bakshi was the Managing Director of this joint venture, he was also MD of CPRL. In a joint venture agreement, there was clause 7e, which stated 4, provisions which should be satisfied to be MD of the joint venture.

Those conditions were as follows:

i. A person should reside in the NCR region

ii. A person should devote substantial time to the company

iii. A person should be holding 50 per cent shares of the company

iv. A person should discharge his responsibility faithfully and competently.

Clause 7e also states that MD shall be elected every two years.

Clause 32 states that MIPL may purchase all of the shares at a purchase price determined as per para 26 if any of the following circumstances occur.

1. Partner personally fails to maintain his principal residence in the National Capital Region of Delhi or fails to devote his full business time and best efforts to JV Company;
2. Partner terminates or suffers the termination of his relationship as Managing Director of JV The company, other than his death or incapacity. In the event of his death or incapacity, Paragraph 29(d) shall govern; or
3. Upon expiration or termination of the agreement.

In 2008, MIPL proposed 5 million USD to Vikram Bakshi based on 50 per cent equity shares he initially invested in 1995. He rejected the proposal. The offered amount increased to 7 million USD, but he again rebuffed the proposal.

On 2013 August 5, a board meeting was held, and on August 21, Vikram Bakshi received notice that he has been expelled from his office and has to relinquish his office within 15 days. MIPL contested that he was not faithful and also he did not devote substantial time to the company. By these two conditions, he was not qualified to be the MD of the joint venture.

He filed the suit in Company Law Board under section 397, 399 and 402[3][10] alleging oppression and mismanagement. Company Law Board passed the order to maintain the status quo over the shareholding, board pattern and right of call option until further order. In 2014, the

[10] The Companies Act, 2013

matter transferred to NCLT under section 241 and 245[4] of the new act.

Meanwhile, MIPL invoked the arbitration agreement by its request for arbitration and instituted arbitration proceedings in the London Court of International Arbitration. London Court of International Arbitration passed an award stating, if the fair market value is furnished, MIPL can purchase shares.

Termination of Agency

'Whatever is created may be destroyed'. An agency may be created in following manner;

i. By acts of parties; or

ii. Operation of Law

According to S.206[11] It says, reasonable notice must be given of such revocation or renunciation; otherwise the damage thereby resulting to the principal or agent, as the case may be, must be good to the one by the other. In Sohrabji v Oriental Govt Security Assurance Co[12], an agency was 50 years old & notice of 35 months was held to be inadequate by Privy council because in such cases a large business could have been built up.

According to S.209[13] When an agency is terminated by the principal dying or becoming of unsound mind, the agent is bound to take, on behalf of the representatives of his late principal, all reasonable steps for the protection and preservation of the interests entrusted to him. Acts done by agent before death would remain binding. In Girshan Industrial Co Ltd v Interchem Corpn[14] "An attorney is merely an agent of the principal and what he does, he does for the principal. So long as the principal is alive, any act done by the attorney or his counsel is valid and continues to be valid irrespective of the fact whether the attorney is alive or dead. But the counsel for the attorney cannot act if the principal is dead."

McDonald's India partner Vikram Bakshi hits out at the fast food major, saying it follows 'different standards' for india compared to others countries and continuously ignored the food quality concerns raised by him in the past 4 years. His remarks came hours after McDonald's suggested that CPRL's new logistic vendor may pose risk to McDonald's food quality and safety standards.

Bakshi said: "It appears that McDonald's have global standards for food safety and supplies, and they have a very different set of standards for countries like ours which is a clear double

[11] Indian Contract Act, 1872
[12] Sohrabji v Oriental Govt Security Assurance Co (1944-45) 72 IA 315, AIR 1946 PC 9
[13] Indian Contract Act, 1872
[14] Girshan Industrial Co Ltd v. Interchem Corpn, 1970 Curr LJ 387

standard."

Fight between McDonald's and its India partner Vikram Bakshi has been going on for a few years. However, the latest round of exchanges started earlier this week after CPRL's logistics partner Radhakrishna Foodland stopped the supply that led to the shutdown of all McDonald's outlets in East India.

Vikram Bakshi blamed McDonald's for the 'abrupt supply disruptions' and partnered with a new logistics vendor ColdEX. Bakshi's move did not go well with McDonald's. The fast food giant alleged it had not approved the new vendor. McDonald's said: "Using unapproved vendors for the supply chain is creating serious compliance risks to McDonalds standards for food quality and safety."

To which Bakshi responded, saying that issues concerning public health have been blatantly ignored by McDonald's with no responses, visits or actions on food safety. "It is indeed ironic that the conscience of McDonald's has suddenly awakened to quality and food safety in India, when for the past four years, CPRL has been bringing to their attention, including their CEO, Steve Easterbrook, issues of the same, without extracting a single response or visit from them," Bakshi said in a statement.

Earlier this week, Radhakrishna Foodland had discontinued its supply services alleging reduction in volume and non-payment of certain dues, among others. Termination of supplies affected about 100 restaurants in East and North India. Bakshi said this was a pre-planned step in collusion with McDonald's and their wholly owned subsidiary in India MIPL. Later, NCLT-appointed CPRL administrator asked Radhakrishna Foodland to resume the supply services as the termination was in contravention of the NCLT judgement that ordered for smooth functioning of the CPRL restaurants without any hindrance.

Illustration:

Suppose A, owns a prominent food restaurant in Lucknow, famous for its healthy Lettuce Burgers, who engages B, a renowned Chef, works as an agent for A's Company. But B appoints C, a third person for making the Lettuce Burgers. Result of which, people started having serious health issues after eating that Burger. Now, the Question arises, Is the appointment of C on behalf of B stands valid? And whether A will be held liable for the Acts of C?

Answer to the First part of Question: Yes, the appointment of C on behalf of C stands valid. According to S.194[15], which says, where an agent, holding an express or implied authority to

[15] Indian Contract Act, 1872

name another person to act for the principal in the business of agency, has named another person accordingly, such person is not a sub-agent but an agent of the principal for such part of the business of the agency as is entrusted to him.

Answer to the second part of Question: S.194 in accordance with S.192 says, where a sub-agent is properly appointed, the principal is, so far as regards third persons, represented by the sub-agent and is bound by and responsible for his acts, as if he were an agent originally appointed by the principal.

Agent's responsibility for sub-agent. —The agent is responsible to the principal for the acts of the sub-agent.

Sub-agent's responsibility. —The sub-agent is responsible for his acts to the agent, but not to the principal, except in cases of fraud or wilful wrong.

In Calico Printers' Assn v Barclays Bank[16] WRIGHT J explained the effect of proper delegation:

"Even where the sub-agent is properly employed, there is no privity between him and the principal; the latter is entitled to hold the agent liable for breach of the mandate, which he has accepted, and cannot, in general claim against the sub-agent for negligence or breach of duty."

(D) Legislative Framework in India

While Franchising as an innovative way of expanding business into new marketplaces has spread all around the world, different laws which are applicable to franchising.

In the United States of America there are a range of laws governing the franchising industry. These laws govern the franchisor-franchisee relationship requiring all franchise offerings to be registered and franchisors to provide through disclosure documents. Other countries with a high degree of franchise regulation include Australia, Brazil and Malaysia.[17]

In many other regions of the world there are no specific laws in place governing the franchise industry. In these places more general laws are applicable to the franchise industry such as in the European Union where franchise relationships are governed by competition laws.

In India, while there are no specific franchise[18] laws, there are a range of laws and regulations that can be made applicable to franchising. These laws include those addressing competition, consumer protection, intellectual property, labour, property and taxation.

The following is a list of the common laws relating to franchising in India:

---

[16] Calico Printers' Assn v Barclays Bank, (1931) 145 LT 51 (CA)

[17] Franchise Law in India, FRANCHISE ASIA (April 27, 2020), https://www.franchiseasia.com

[18] Taken from Finance Act, 1999 [*repealed*]

1. The Indian Contract Act

The Indian Contract Act of 1872 governs all aspects of franchise contracts including the franchise offering, acceptance, consideration, validity, breach and the termination of the franchise contract. The act also ensures that the parties consent freely and are competent to contract.

2. Competition Laws[19]

The Competition Act was enacted by the Competition Commission of India in 2002 but did not come into full effect until 2009. The act aims to promote competition and freedom of trade, protect consumers and prevent anti-competitive agreements and activities that have an adverse effect on competition in India. In franchising The Completion Act aims to ensure that tie-in arrangements, exclusive supply and distribution agreements and resale price maintenance do not inhibit competition in the marketplace.

3. Intellectual Property Laws

There are four acts covering intellectual property rights (IPRs) in India; The Copyright Act (1957), The Patents Act (1970), The Trademarks Act (1999) and the Designs Act (2000). These rights are essential to the survival of the franchise industry and provide protection for trademarks, patents and registered designs and allow legal actions to be brought against third parties for infringement of these rights.

4. Consumer Protection Laws[20]

The Consumer Protection Act was initiated in 1986 to provide recourse for consumers who receive defective goods or experience unsatisfactory service. Under these laws consumers are encouraged to file complaints and could file an action against a franchisor, a franchisee or both depending on the nature of the franchise agreement.

5. The Foreign Exchange Management Act[21]

Established in 1999, this act governs payments in foreign currency and is generally applicable to cross-border franchise arrangement.

6. Labour Laws

There are a host of labour laws in India that may be applicable to franchises therefore it is important that the franchisee and franchisor are aware of these and that responsibilities in

[19] The Competition Act, 2002
[20] Consumer Protection Act, 2019
[21] The Foreign Exchange Management Act, 1999

relation to workforce are clearly delineated in the franchise agreement.

7. Income Tax Act[22]

The Income Tax Act of 1961 governs the tax aspects of any franchise in India and also that a cross-border franchisor complies with local tax regulations with respect to any applicable tax treaties.

8. The Arbitration and Conciliation Act[23]

Enacted in 1996 The Arbitration and Conciliation Act governs the India law of domestic and international arbitration. This law may come in to effect in the case of franchisee-franchisor disputes.

9. Provincial Insolvency Act[24]

The Provincial Insolvency Act of 1920 comes into effect in the case of individual franchise unit or franchise chain financial insolvency.

10. Reserve Bank Of India Rules[25]

The franchising agreement is also subject to all rules issued by the Reserve Bank of India (RBI).

S.211-S.225[26] defines Rights and Duties of an Agent. *Ubi Jes Ibi Remedium* that is where is a right, there is remedy.

Duty to execute mandate- Agency is created for a purpose the first and foremost duty of the agent is to execute the mandate of agency (the work for which he's appointed). In Pannalal Jankidas v Mohanlal[27] The principal directed the agent to the insurance for goods. The agents didn't take the insurance. Goods were destroyed in explosion. The agent was held liable.

According to [S.211] Duty to follow instruction and custom: It says, Agent's duty in conducting principal's business-An agent is bound to conduct the business of his principal according to the directions given by the principal, or in the absence of any such directions, according to the custom which prevails in doing business of the same kind at the place where the agent conducts such business. When the agent acts otherwise, if any loss be sustained, he must make it good to his principal, and if any profit accrues, he must account for it. In Lilley v Doubleday[28] Principal instructed the agent to store the goods in a particular warehouse. The agent stored the goods in

[22] Income Tax Act, 1961
[23] The Arbitration and Conciliation Act, 1996
[24] The Provincial Insolvency Act, 1920
[25] Reserve Bank of India Act, 1934
[26] Indian Contract Act, 1872
[27] Pannalal Jankidas v. Mohanlal AIR 1951 SC 144
[28] Lilley v. Doubleday, (1881) LR 7 QBD 510

 [ISSN 2581-5369]

a different warehouse which was similar & safe. Goods were destroyed without the negligence of agent. The agent was held liable for the loss. Because any disobedience or departure from the instructions would make the agent liable.

(D) Judicial Responses to it

There are three persons involved in this case McDonald's India Private Limited v. Vikram Bakshi and Others[29]. Particularly Vikram Bakshi, McDonald's India Pvt Ltd and Connaught Plaza Restaurants Ltd. In 1995 McDonald's India Pvt Ltd (MIPL) and Connaught Plaza Restaurants Ltd (CPRL) had a joint venture in such a way that 50 percent of equity share was with MIPL and rest 50 percent equity shares was with CPRL. Vikram Bakshi as the Managing Director of this joint venture agreement, there was clause 7e, which stated 4 provisions which should be satisfied to be MD of the joint venture.

"The termination is a result of a breach, a violation of certain essential obligations that were a part of the agreement typically the default of payment of royalties to MIPL for two years," said Ron Christianson, global head of corporate relations, foundational markets at McDonald's Corp., in August. "CPRL was notified of the braches and was provide opportunity to remedy those; it had failed to do so."

This is not the first time Bakshi found himself at loggerheads with the global corporation. The case has been fought against McDonald for four years in multiple forums: The National Company Law Tribunal (NCLT), National Company Law Appellate Tribunal (NCLAT), London Court of International Arbitration (LCIA), Delhi High Court and even, at one point, the Supreme Court of India.

NCLT stated that Vikram Bakshi managed the joint venture company single-handed as a result, the business reached from 0 branches to 154 branches in India. From 1995 till 2013 company had no single complaint against him, therefore, it can be concluded there was oppression in the company to acquire 50 per cent of equity shares. Removal of Vikram Bakshi was held unreasonable. It also appointed the former Supreme Court judge, Honourable Mr Justice G S Singhvi, to investigate the matter and prepare the report.

The matter went to NCLAT. It said the opinion made by NCLT is proper as it already investigated the matter and appointed an administrator. The administrator has to look into the matter and tell whether the act was mismanagement or not. Until and unless the company will not prove their contention to remove Vikram Bakshi, he will not vacate his office.

[29] McDonald's India Private Limited v. Vikram Bakshi, AIR 2016 DEL 3531

When the matter went to Delhi HC, MIPL simultaneously withdrew all food licence from CPIL and dissolved the joint venture.

(E) Challenges still unresolved

Recently, McDonald's the world's iconic largest food service provider, has been through the grinder. Poor performance has led to the departure of its CEO and plenty of critical attention in the business pages.[30]

Firms needed to develop strategies for knowing and explaining where stuff comes from. Since, then the idea of product provenance has steadily crept up the corporate agenda and is now a compulsory issue for boards and governments. In the UK, for example, Legislation in progress that would build on the California Supply Chain Transparency Act, Wider range of firms. Across Europe, the 2013 horsemeat scandal generated widespread panic about contaminated meat.

Transparency needs a long game; reputational problems don't mend fast. Few firms have faced such reputational challenges as McDonald's. In the 1990s, an ill-judged legal case, the McLibel trial, saw the corporation acting against a tiny environmental group in one of the longest civil cases in UK history, with terrible reputational consequences. Faced with these challenges, McDonald's has not been idle. It has taken on its critics and made substantial changes to both its practices and its communication. Indeed, in the UK, the official government review of the horsemeat scandal, the Elliot Review, singles out the McDonald's supply chain for praise. In the United States, a series of documentary-style promo films with celebrity presenter Grant Imahara have tried to give customers a clear and unvarnished account of sourcing and production processes. You may still not like the firm or its products, but you can't deny it has made serious efforts.

The trouble is bad reputations aren't lost that easily. A generation of cynical middle-class customers have already decided that McDonald's is a tarnished brand. Supply-chain transparency is that kind of challenge: It's rarely the top thing on consumers' minds, but it is an issue that sticks in the imagination. And when newer, less tarnished players like Chipotle arrive, consumers can tacitly exercise the prejudices and cross the street. The lesson for other firms: If you have problems in your supply chain, don't let the critics get there first.

Food supply contracts can be complicated and detailed legal agreements that require careful consideration. Some of the key points for suppliers to consider when contracting with food

[30] Steve New, McDonald's and the Challenges of a Modern Supply Chain, HARVARD BUSINESS REVIEW (February 04, 2015), https://hbr.org/2015/02/mcdonalds-and-the-challenges-of-a-modern-supply-chain

retailers are set out below;

Price, The Supplier's obligations, Limitation of Liability, *Force Majeure,* Product Recall, Governing Law and Jurisdiction.

III. CONCLUSION

McDonald's Supply Chain is quite uniquely handled with least number of employees on McDonald's payroll. The control on outsourced entities is commendable. With ever growing business of fast food McDonald's has laid down its systems efficiently and expanding at enormous speed. The model can be replicated in other sectors as well.

Global operations need consistent global standards. Despite the great strides that McDonald's has made in some markets, its progress and practices have not been uniform. Last year McDonalds — and other major food companies — were plunged into a food safety scandal in China. This is a case of your defence being as strong as your weakest point. Bad headlines about foreign operations tell consumers, "This company still can't be trusted." And such bad news doesn't just reduce the impact of your good work elsewhere; it means that its credibility is fundamentally undermined. So firms need to be cautioned: Supply-chain transparency initiatives are not a normal program to be rolled out region by region.

*****

IV. REFERENCES

- Section. 182, INDIAN CONTRACT ACT, 1872
- Kalyanji Kuwarji v. Tirkaram Sheolal, AIR 1938 Nag 255.
- Mohesh Chandra Bosu v. Radha Kishore Bhattacherrjee, (1907-08) 12 CWN 28, 32.
- P. Krishna Bhatta v. Mundila Ganapathi Bhatta, AIR 1955 Mad 648.
- Avatar Singh, LAW OF CONTRACT, 1872 and SPECIFIC RELIEF
- Syed Abdul Khader v. Rami Reddy, 1979 2 SCC 601
- National Textile Corpn Ltd v. Nareshkumar Badrikumar Jagad, 2011 12 SCC 695: AIR 2012 SC 264.
- McDonald's India Private Limited v. Vikram Bakshi, AIR 2016 DEL 3531
- The Companies Act, 2013
- Sohrabji v. Oriental Govt Security Assurance Co (1944-45) 72 IA 315, AIR 1946 PC 9
- Girshan Industrial Co Ltd v. Interchem Corpn, 1970 Curr LJ 387
- Calico Printers' Assn v. Barclays Bank, (1931) 145 LT 51 (CA)
- Franchise Law in India, FRANCHISE ASIA (April 27, 2020), https://www.franchiseasia.com
- Taken from Finance Act, 1999 [repealed]
- The Competition Act, 2002
- Consumer Protection Act, 2019
- The Foreign Exchange Management Act, 1999
- Income Tax Act, 1961
- The Arbitration and Conciliation Act, 1996
- The Provincial Insolvency Act, 1920
- Reserve Bank of India Act, 1934
- Pannalal Jankidas v. Mohanlal AIR 1951 SC 144
- Lilley v. Doubleday, (1881) LR 7 QBD 510
- McDonald's India Private Limited v. Vikram Bakshi, AIR 2016 DEL 3531

- Steve New, McDonald's and the Challenges of a Modern Supply Chain, HARVARD BUSINESS REVIEW (February 04, 2015), https://hbr.org/2015/02/mcdonalds-and-the-challenges-of-a-modern-supply-chain

*****