
The Effect Of Clarity And Ambiguity In Recognizing The Abuse Of Procedural Rights By The Courts In The Legal Relations Of Corporates

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Abstract

The judgments of the courts must be substantiated and documented by the articles of the law and the principles based on which the judgment was issued, it seems that the capacity existing in the above-mentioned principle regarding the reference to the principles in issuing judicial opinions has not been properly paid attention to. The judges of the courts actually refer to the principles, but apparently this is not done methodically and systematically. Therefore, in addition to the conceptualization of legal principles in examining the rules governing the justified reference to the aforementioned principles in judicial proceedings, what has been considered is the preparation of recommendations or guiding principles for the use of court judges in order to properly cite legal principles? The legal category of procedural right abuse is one of the most problematic categories in terms of law enforcement. The difficulty of its application lies in the fact that the actions of procedural relation participants cannot be assessed by the court from the position of the motive that guided the party and the goal setting of the participants in relation to the general goal of civil proceedings - the correct and timely consideration of a case. All this determines the importance of clarity and unambiguity principle setting when the courts determine the abuse of procedural rights in corporate legal relations. In this article, the author analyzes law enforcement practice, which is aimed at establishing the principle of clarity and unambiguity operation in corporate legal relations, in relation to the category of procedural right abuse.

Keywords: arbitration practice; Legal relations; conscientiousness; abuse of procedural rights; Constitutional Court of the Russian Federation; legal uncertainty; Supreme Court of the Russian Federation.

Introduction

Assurance of disregarded or questioned freedoms and genuine interests of the people took part in pioneering and other financial exercises is the primary assignment of legal procedures in assertion courts. Inside the structure of procedural relations, the honest way of behaving of members in questioned lawful relations is assumed, which reliably carry out the component for security of freedoms, which depends on the material interest of an individual concerned. The most noteworthy legal occasions dispose of the recognized instances of lawful vulnerability deliberately, uncover current realities of maltreatment of procedural privileges, which without a doubt assists the legal specialists with smothering such realities adequately later on.

The examination of the greatest legal case positions affirms the adequacy of steady legal checking as far as recognizing legitimate vulnerability and maltreatment of procedural privileges in corporate lawful relations.

The law consists of rules and regulations that are prepared and regulated according to the needs of the society by the discerning people, reviewed and approved by the expert legislators in the parliament and used with the purpose of regulating individual and social relations and creating order, security and justice, after It is validated through legal procedures and the government guarantees its implementation and protection of its privacy and sanctity. The ultimate goal of creating legal rules is to implement order and justice by using legal mechanisms. Law acts as a regulator of the behavior of society members; Behaviors that in the absence of the "ruler of the law" will naturally come into conflict with their interests and disrupt the system of social relations. It is flourishing, but in its extreme form, it has caused conflict, strife, war and conflict in human life, and as a result, lawlessness. Growth and development in various economic, social, cultural and political dimensions have not been achieved, except in the shadow of creating order and security and of course compliance with the "law". Compliance with the law and rule of law indicates the stability and cohesion of the society. Healthy relations

between citizens and positive interaction will be possible in the light of compliance with the "law". Security as the main need of today's life in its various dimensions is formed only in the shadow of the law.

New needs demand new rules and regulations. Social order is the blessed product of rule of law, and lawlessness is considered a kind of orientation towards social norms; A phenomenon that is seen in all societies to a degree of intensity and weakness. In some societies, accepting the law, obeying and respecting it is rooted in the behavioral culture of the people in such a way that it has become "sacred" for them to the point where "all their actions, behavior, deeds and thoughts show themselves." A society that regulates its movement according to the law, more than anything else, it helps the emergence of creativity and in the direction of prosperity within itself; Since the ultimate and ultimate goal of the law is to create order and establish justice in such an environment, the "ruler of the law" has taken steps to determine the limits and boundaries and clearly outline the relationships of individuals from the legal rights of the members of the protection society, prevent encroachment on the sanctity of people's rights, and create discrimination. And he avoids inequality and uses all his harmony to maintain order and observe justice. In such a society, the distribution of wealth and facilities is done according to the ability, talent and merit of people, the rights and duties are necessary and necessary and before the assumption is made that people are familiar with the laws;

The principle is placed on the education of rights and duties because it requires a population micro-group, when citizens evaluate the law in line with their personal and social interests, they favor its implementation. Law evasion in many societies is rooted in history and the past due to special conditions, non-compliance and compliance with the law goes back to the weakness in understanding the functions of the law; The responsibility of the government and the government: avoiding task-oriented view, moral weakness, inattention to the place of culture in the regulation, formulation and approval of laws, weakness of the legislative system, conflicts of laws with individual and group interests, diminishing the role of customs, habits and beliefs in laws, fueling the atmosphere of mistrust in the society and as a result discrediting the role and place of public participation and the government's monopoly in affairs.

Methods

A review article is a type of article that reviews the background of a scientific topic. In review articles, the results presented in scientific writings about a specific topic are summarized and evaluated. This type of article may examine anything, it is designed to summarize, analyze and evaluate information that has already been published. In such articles, experimental and new findings are rarely reported. Review articles have a well-defined narrative, are usually critical, and should provide theoretical and emerging interpretations. The important role of review articles is to guide original scientific writings. For this reason, it is essential that the citations provided are accurate and complete. The strategic premise of the review was the overall procedural arrangements: established regulation, common procedural regulation, managerial procedural regulation, and criminal procedural regulation. The accompanying strategies for logical information were utilized in the review: intersectoral, persuasive, and humanistic technique.

Results and Discussion

The desire of an intrigued individual send-offs the system of a fair open preliminary to accomplish the most great outcome for him for the situation. Nonetheless, this is conceivable provided that an individual concerned acted sensibly and sincerely, considering the freedoms and genuine interests of the other party [1]. Legal practice reliably uncovers current realities of maltreatment of procedural freedoms, because of the activity of the standard of clearness and unambiguity, which decreases the quantity of such maltreatments later on.

Corporate relations, detached regarding the procedural elements of the case thought, somewhat as of late have their own qualities which decide the maltreatment of procedural freedoms. As per the examination of homegrown procedural regulation, the class of "completely pure intentions" and "procedural right maltreatment" is unveiled mostly in the general piece of the APC of the Russian Organization (the Articles 41, 87.1, and 138.5) and just as the piece of the thought of cases on the security of the privileges and genuine interests of a gathering of people (the Craftsmanship. 255.10-1) [2]. Subsequently, the administrator, characterizing the overall underpinnings of these classifications, offers the law implementer the chance to apply his own watchfulness while thinking about specific classifications of cases, including the debates emerging from corporate legitimate relations.

A.V. Yudin noticed, that the maltreatment of procedural freedoms ought to be perceived as a unique type of a common procedural offense, i.e., deliberate untrustworthy activities of the common cycle members (and at times, the court), joined by the condition infringement concerning the activity of emotional procedural freedoms and performed exclusively with the presence of such right execution [3, p. 10].

Understanding that legal practice assumes a significant part [4], we will attempt to uncover the most fascinating places of the courts of higher occasion, as far as distinguishing the instances of procedural right maltreatment or

recognizing clearness and unambiguity [5,6,7], which gives amazing open doors to infringement or maltreatment of freedoms in corporate legitimate relations.

In the Decision of the Sacred Court of the Russian League (Walk 26, 2019) No. 799-O [8], the sacred control body, having concentrated on the submitted materials, reached the resolution that the Article 46 (section 1) of the Constitution of the Russian League, ensuring everybody the right to legal insurance of their privileges and opportunities, straightforwardly lays out no particular strategy for the activity of this right and doesn't infer the opportunities for a resident, an association to pick the technique and method for legal test at their own watchfulness. Not entirely settled by government regulations, in such manner, the arrangements of the section 1, section 1, article 127.1 of the APC of the Russian Organization, as per which the adjudicator won't acknowledge an assertion of case in the event that it isn't dependent upon thought and goal in a mediation court, is pointed toward barring the acknowledgment by a discretion court for thought of cases that are not inside its skill, and consequently likewise can't be viewed as disregarding the established freedoms of a candidate.

As indicated by the Established Court, honest intentions ought to be the reason for the execution of privileges, and a regulation master, while settling a lawful question that has emerged, ought to continue from the overall legitimate standard, as per which the activity of human and social equality and opportunities shouldn't disregard the freedoms and opportunities of different people. By temperance of administrative arrangements, the option to challenge the choice of the comprehensive gathering of members in a restricted responsibility organization, taken disregarding the law necessities, is conceded to a member in a restricted risk organization who didn't partake in the comprehensive gathering or casted a ballot against the challenged choice.

In the Decision of the Sacred Court of the Russian League (July 18, 2019) No. 2058-O [9], the assortment of protected control noticed that the procedural status of people taking part in the thought of this class of corporate questions by assertion not entirely set in stone by legal practice. As per the arrangements of passage 32 of the Goal of the High Court Plenum of the Russian League (June 23, 2015) No. 25 "On the court utilization of specific arrangements of Segment I, Section One of the Russian League Common Code", an enterprise member who, as per the laid out technique, for the benefit of the partnership, applies to the court with a case for pay misfortunes caused to the company (the Article 531 of the Russian Alliance Common Code), by uprightness of regulation is its delegate, and the partnership is the offended party for the situation (Thing 2 of the Article 53 of the Russian League Common Code, Thing 1 of the Article 652 of the Russian League Common Code); an individual approved to follow up for a company is likewise a delegate of the company while thinking about the said claims, alongside the individual from the partnership who submitted them; the litigant in a case to make up for the misfortunes caused to the enterprise is the individual who caused the misfortunes, who, by excellence of regulation, one more lawful demonstration or the constituent report of the legitimate substance, is approved to follow up for its sake, the individuals from the collegial groups of the legitimate element, an individual who has the genuine chance to decide the activities of the legitimate element (passages 1-4 of the Article 531 of the Russian Organization Common Code).

Hence, the arrangements challenged by a Candidate, which are focused on the execution of compelling legal security ensures by undeniably closely involved individuals, likewise concerning repayment of lawful expenses, don't contain vulnerability about the creation of the people engaged with cases on the cases of a legitimate element member for harms, caused to this legitimate substance, as well as the need to repay the court expenses for the party in whose favor the legal demonstration was given containing the finish of the discretion court on the lawfulness or illicitness of the petitioner's case, and subsequently can't be considered as disregarding the sacred freedoms of the candidate recorded in the protest inside the predefined viewpoint.

The Supreme Court of the Russian Federation [10], identifying the operation of the principle of clarity and unambiguity in terms of control sign determination within the ability to determine the decisions of the subsidiary by the parent company, found that the absence of a formal sign of control (50% or more participation in the authorized capital of the subsidiary) does not prevent the setting of another actual ability to determine the decisions made by the subsidiary. Satisfaction with such additional criteria shall be assessed within the evidence presented by the parties. The presence of possible instructions or consent of the main business partnership or company when making a specific transaction is included in the subject of proof, taking into account the evidence presented by the parties. If the plaintiff cites sufficiently serious arguments and presents significant circumstantial evidence, which in this regard make it possible to recognize his arguments about the emergence of relations of actual control and subordination as convincing, then the defendants must prove the circumstances that they refer to as the basis for their objections to the stated claim (the Article 65 APC RF). In this case, the determination by the court of the presence of instructions or the consent of the main company is the basis for bringing it to joint and several liability for the obligations of the subsidiary. The absence of formal control (49.95%) should be assessed by the court, taking into account the presence of other participants, the size of their participation and the degree of involvement in the process of managing a group of companies (Ruling No. 305-ES18-12143).

Conclusions

The materials of law enforcement practice confirm the effectiveness of constant judicial control in terms of identifying the principle of clarity and unambiguity operation during determination of procedural right abuse in corporate legal relations. In our opinion, judicial practice is a key factor for establishing clarity and unambiguity as the basis for further detection of procedural right abuse in corporate legal relations.

One of the institutions that belong to modern societies and are considered as the main branches of communication with society are public relations. This institution, which was initially formed to talk with people, gradually changed its nature with the increasing growth of the advertising function in public relations units. So that every time a new definition of its function was presented. Since the beginning of the 20th century, about 472 definitions have been considered for it. Currently, this institution is considered as the most popular part of any group in the country, and it was created with the aim of facilitating communication between organizations with the internal and external environment, audiences, public opinion, media and other organizations. At the same time, by performing the functions of providing information and finding information, creating and maintaining two-way communication and mutual understanding between the organization and the audience, gaining the trust and participation of the audience in the organization, helping the management to keep pace with environmental changes, bringing the attitudes of the audience closer to the organization and vice versa to the dynamics. And it helps the growth and development of organizations. But the important point is that despite the existence of more than 50 years since the formation of public relations in government organizations, its functions are still far from its real philosophy in organizations and it has not been able to achieve its proper position and play its effective roles in the field of internal and external organizations. According to the belief of many public relations specialists and experts, the current position of public relations in Russia is not very satisfactory and the existing capacities are not well utilized, and no significant progress has been made in the legal field. Although some experts believe that there are good and up-to-date laws in the field of regulations and legal frameworks, but their implementation guarantee and support is very weak and ineffective, and this has caused many public relations regulations to become unenforceable.

Causes and Factors Affecting Rule Of Law

General acceptance, in the sense that the majority of people in the society consider the law as a manifestation of population administration and refer to it as a lever of population order and prosperity, not as a provider of individual and group interests, as in many societies, proximity to the position of power Creates "Rent and special privileges" If it is not provided for the implementation of the law, the desired result will not be achieved. The existence of the guarantee of implementation is the most important pillar, guaranteeing the effective implementation of laws in deterring violations of the law; At this stage, the role of a powerful and popular judicial system, along with the use of support mechanisms such as: independent lawyers' association, experts' association, effective administrative-judicial police, forensic medicine, etc.

Causes of illegality

Respecting the law and creating a suitable environment with the aim of the society's orientation to this matter has a decisive role in ensuring order and security and, as a result, the administration of justice; A process that will lead to the participation of citizens in relevant matters and will lead to growth and development in various fields. The abnormal phenomenon of lawlessness and disobedience to the law, affected by several causes and factors, harms the individual and society, and leaves devastating effects. The main causes affecting the formation and development of the phenomenon of lawlessness are: 1- The lack of knowledge about the different angles of the law and its applications, which can be done through familiarizing citizens with individual and social rights and with the cooperation of mass communication media (radio, television, press, etc.), family, and the official institution of education. This is an important task and such a process is possible in the form of teaching citizenship rights at the general level and in simple language. 2- Modeling inappropriate to culture 3- The lawlessness of officials, which can play a destructive role in the ill-education of people, especially the young generation. 4- The effects of economic, social, cultural and political crises at different levels which will lead to indifference, lack of motivation, moral weakness, weak belief, mistrust, individualism, isolationism and ultimately nihilism. 5- Unemployment, poverty, poverty, discrimination, inequality and injustice. 6- Cultural roots such as crossing the legal limits, on behalf of a certain group and placing this false belief in the society that evading and avoiding the law as "honor" and "smartness".

The weakness of the legislative, executive and judicial system and the lack of organic communication between these groups in line with the strict implementation of the law. Approval of ineffective laws by "Majlis representatives" as a big damage in the field of legislation! Dispersion and inflation of laws and ambiguity in their implementation, the use of heavy and back-breaking procedures in the implementation of the law, the existence of corruption in the administrative, executive and judicial system, lack of adherence to the implementation of the law, the weakness of supervisory levers, etc.

Summary

Protection of violated or disputed rights and legitimate interests of persons engaged in entrepreneurial and other economic activities, as well as strengthening the rule of law and preventing offenses in the field of entrepreneurial and other economic activities is possible only with an effective judicial power. Efficiency is achieved through a consistently implemented mechanism for protection of rights, including the detection of procedural right abuse due to the operation of clarity and unambiguity principle in civil proceedings.

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