

**Chandrawat
& Partners**



Government & Public Sector in India

A comprehensive guide

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The logo for Chandrawat & Partners, featuring the company name in white text on a red square background.

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Introduction

Public sector aims to achieve a dual objective of working for the benefits of the society while competing with other private bodies to make sustainable profits. As private sectors lead prominence on developing core competencies to continue being profitable, public sectors has also moved towards advancing operations and working closely with private sector to improve proficiency.

The public sector is the portion of the economy that the government controls and manages. It consists of entities that offer public goods and services, including national defence, law enforcement, public education, health care, social welfare, and infrastructure development. Its purpose is to provide essential goods and services to the general public and ensure the well-being of the society as a whole.

Organizations in the public sector are owned and governed by the government, as opposed to private persons or businesses.

Such organizations are often not driven by profit but rather by the desire to provide the public with essential products and services.

This sector provides critical commodities and services for the well-being of individuals, including education, healthcare, and infrastructure.



Market Dynamics



The Industrial Policy Resolution 1991 reduced the number of industrial undertakings exclusively reduced to the public sector to just six areas which included strategic industries like atomic energy, defence, coal, mineral oils etc. as well as railway transport.

A list of 17 industrial sectors was reserved for the public sector in Schedule A of the 1956 Resolution and no new units in the private sector in these categories would be permitted. Another list of industries was included in Schedule B where the Government actively encouraged public ownership.

Efforts were made to divest non-strategic public sector industries and to increase private participation in the equity of profitable public sector industries. At the same time a Board for Reconstruction of Public Sector Enterprises has been set up to suggest ways to turn around sick and loss-making public-sector enterprises. Public enterprises are playing an important role in the economic development of developing countries. They are involved in various sectors of economy. They play an active role in fulfilling the needs of people.

The internal (profits) and extra-budgetary resources (borrowed funds) of public sector undertakings are factored into the preparation of the Annual Financial Statement (Budget) of the Government

Importance of Government and Public Sector

- **Planned Development**

Most developing countries have five years development plans for economic development. Public enterprises are given specific roles and targets in such plans.

- **Infrastructure Development**

Infrastructure consists of transport, communication, power, irrigation, drinking water and buildings. They require huge investment and long period is required to complete them.

- **Basic and heavy industries development**

Iron and steel, electricity, fertilizer, petroleum and telecommunication are examples of basic and heavy industries. They are essential for industrialization of the country.

- **Public utilities concerns**

Public utilities consist of services. They can be water supply, electricity, oil and gas, railways, airlines, public transport and telecommunications.

- **Balanced development**

Government requires balanced development in all regions of the country. Private sector is not attracted to less developed regions because of low economic gain.

Government reforms



In the last 6 years, there have been four positive developments with respect to the reform of India's public sector enterprises.

According to Dr. Bimal Jalan, the Governor of the RBI, the most significant for the future is the partial disinvestment of equity of selected enterprises. In most cases, however, the extent of disinvestment is very small (less than even 20% of equity). But it is no doubt an important first step in the commercialisation of enterprises and in making them subject to public scrutiny and accountability.

Secondly, public sector enterprises including commercial banks are now encouraged to raise fresh equity directly from the public rather than depend on government subsidy. If this measure is properly taken the future expansion of enterprises would depend on their ability to attract capital from the public. This, of course, will depend to some extent on their financial performance.

Thirdly, public sector monopolies called 'natural monopolies' are now forced to face competition from new private enterprises in most sectors. According to Dr. Jalan, "A competitive environment is a necessary, though not, sufficient condition for efficient use of resources by enterprises".

Fourthly, steps are being taken to make the institutional relationship between the government and commercial enterprises more contractual and less ad hoc. It may be noted that the Central Government has signed a memorandum of undertaking with more than 100 commercial enterprises in the past few years. No doubt a formal and contractual relationship is more conducive to better performance than an informal and ad hoc system of supervision and control.

Major Investments

Foreigners have preferred to buy state-owned companies in energy and infrastructure sectors. For instance, FPIs' holding in power equipment maker BHEL increased by 3.68% in the December 2022 quarter.

In Coal India, Foreign Portfolio Investors have raised their stake from 6.73% to 7.86% in the December quarter. Similarly, foreign fund managers have raised their holdings in Power Grid by 1.08% in the December quarter.

Foreign investors have increased significant holding into multiple Government undertaking from up to 3% on BHEL to 1% in Bank of India.



Governing rules, laws and compliances

The Board of Directors is considered as a crucial part of the corporate governance. The Board's primary role is to monitor management on behalf of the shareholders. The primary responsibility of governing a company (whether private or Government Company) is upon its Board of Directors. Board of Directors shall-

- Act in the best interests of and fulfil their fiduciary obligations to the Company.
- Act honestly, fairly, ethically and with integrity.
- Conduct themselves in a professional, courteous and respectful manner and not take improper advantage of the position of Director.
- Act in a socially responsible manner, within the applicable laws, rules and regulations, customs and traditions of the countries in which the company operates.
- Comply with the communication and other policies of the enterprise.
- Act in good faith, responsibly, with due care, competence and diligence; without allowing their independent judgment to 5,
- Not to use the company's property or position for personal gain.
- Not to use any information or opportunity received by them in their capacity as directors in a manner that would be detrimental to the company's interest.
- Act in a manner to enhance and maintain the reputation of the enterprise.
- Disclose any personal interest that they may have regarding any matters that may come before the Board and abstain from discussion, voting or otherwise influencing a decision on any matter in which the concerned Director has or may have such an interest.
- Abstain from discussion, voting or otherwise influencing a decision on any matter in which they may have a conflict or potential conflict of interest.
- Respect the confidentiality of information relating to the affairs of the Company acquired in the course of their service as Directors for their personal advantage or advantage of any other entity.

Dispute Resolution

The pendency of cases in India is in lakhs. The root cause behind such growing pendency of cases is the rise in the number of fresh suits filed every year which has surpassed the number of disposed of suits. Subsequently, this has led to an increase in the backlog of cases.

The combined efforts of the Government of India and the Indian Judiciary has somehow resulted in bringing in a reduction in the number of pending cases. The proactive approach adopted by the Government included initiatives such as the establishment of specialized courts, speeding up the process, an increase in the number of judges, etc.

However, among all the measures being taken, the amendment of Section 89 of the Code of Civil procedure 1908 was the most significant.

Settlement of disputes outside the Court:

Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of the settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for-

- arbitration.
- conciliation.
- judicial settlement including settlement through Lok Adalat; or
- mediation.

How we can help?

Our team helps the organizations to make sure that they are invested in the right skills, sustainably capitalized and have the means to deliver on their purpose.

Our professionals provide workable and innovative solutions, audit and assurance, tax support and consulting services to government and public service providers. Our team have advised organizations through advance ideologies that have been used by private sectors to build strong foundations.

We help public sector to use the same principles to build strategies for improving the competitiveness in the economy with employing less resources without disrupting the previous deep-rooted environment.

Our professionals have expertise in tackling issues related to persistent issues faced every day across a range of areas in the public domain, including digital government, education, international development, local government, public finance, defence and security.



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