Lifting the Corporate Veil in India: Civil and Constitutional Perspectives from *Dhanush Vir Singh* v. *Dr. Ila Sharma & Ors.*

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ABSTRACT

The doctrine of separate corporate personality has long been recognized as a cornerstone of corporate law offering certainty and autonomy to business entities. Yet, its rigidity often raises questions of fairness, particularly when the corporate veil shields individuals from liability in civil proceedings. This review article examines the decision of the Allahabad High Court in Dhanush Vir Singh v. Dr. Ila Sharma & Ors.,[1] which declined to lift the corporate veil in execution of a money decree, thereby reaffirming the autonomy of the corporate entity. Through this case study, the article interrogates the limits of corporate veil-piercing in Indian jurisprudence, situating the reasoning within both private law doctrine and constitutional principles.

The analysis reveals a parallel between the judicial reluctance to lift the corporate veil in civil contexts and the cautious approach adopted under Article 12 of the Constitution in extending fundamental rights obligations to private corporations. While such consistency preserves predictability and commercial stability, it also highlights a societal gap for creditors, small businesses, and individuals interacting with corporations who may be left without effective remedies.

The article argues that while the judgment underscores the importance of legal certainty, it simultaneously raises constitutional and societal concerns regarding access to justice and protection of weaker parties. By drawing comparative insights from other jurisdictions, the article reflects on whether Indian law requires calibrated statutory or constitutional interventions to reconcile corporate autonomy with the imperatives of accountability in a democratic society.

Keywords: *Corporate Law, Civil Proceedings, Constitution, Accountability.*

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1. Introduction

Corporate personality as a concept, is one of the most significant fictions created by the law, whereby, by conferring a distinct legal personality upon a company, not only are individuals able to organize economic activity through a separate entity that owns property, incurs obligations, and sues or is sued in its own name, but such individuals are also encouraged to take risk and carry out their economic activity smoothly, by virtue of protection accorded to them from personal unlimited liability. This principle, rooted in the celebrated English decision in *Salomon v. Salomon & Co. Ltd.* (1897)[2], forms the bedrock of corporate law in India as well. The crux of the principle of separate legal personality can be illustrated through the following observations of Lord Halsbury in the case of Salomon:

"…[a] limited company was to be viewed like any other independent person with its rights and liabilities appropriate to itself…either the limited company was a legal entity or it was not. If it was, the business belonged to it and not to Mr. Salomon. If it was not, there was no person and no thing to be an agent at all; and it is impossible to say at the same time that there is a company and there is not."[3]

The doctrine of corporate personality, also often referred to as the doctrine of separate legal personality, provides certainty and predictability to commercial actors, encourages entrepreneurship and protects individuals involved in a company from unlimited liability. However, this principle has time and again given rise to multiple controversies surrounding accountability in the corporate structure, when the same is used as a shield to evade legal obligations or act in bad faith. Thus, the judiciary has developed the doctrine of "lifting the corporate veil" as an exception to the general rule of corporate personality. Under this doctrine, courts may disregard the separate personality of a company and hold its directors, members, or controlling officers personally liable in circumstances such as fraud, tax evasion, or where the company is a mere sham. While the veil is not lightly lifted, judicial discretion in this area has remained an evolving terrain, often balancing competing imperatives of fairness to creditors and protection of the corporate form.

The decision was rendered by the Hon'ble High Court of Allahabad [hereinafter referred to as "High Court"] in the judgement of *Dhanush Vir Singh v. Dr. Ila Sharma & Ors.*[4] [hereinafter referred to as "Case of Dhanush Vir"] stands as a significant recent reaffirmation of the limited application of the principle of lifting the corporate veil, wherein the High Court

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2 *Salomon* v *A Salomon & Co Ltd* [1896] UKHL 1.

3 *Id.* at 31, per Halsbury LC.

4 *Supra* note 1.

held that in the execution of a money decree against a company, its directors could not be personally fastened with liability unless specific statutory or equitable grounds for piercing the veil were demonstrated. By refusing to extend liability beyond the corporate entity, the judgment underscores the judiciary's commitment to preserving the integrity of corporate personality in private law disputes.

This decision, however, also raises a broader question involving constitutional and societal considerations. While the case at hand arose in a civil context, the reluctance of the judiciary to pierce the corporate veil, resonates with precedents and judicial trends not only in the private law context, but also in the realm of constitutional law, specifically with regard to Article 12 of the Constitution of India, 1950 [hereinafter referred to as "Article 12"] where private entities are generally not treated as "State" and hence not directly accountable for violations of fundamental rights. This parallel demonstrates a consistent judicial posture—whether in civil liability or constitutional accountability—that the corporate form will not be disregarded except under stringent conditions.

However, such an approach, while preserving commercial predictability, highlights a lacuna in the law whereby individuals and smaller entities dealing with companies may find themselves without meaningful remedies when the corporate form protects officers from liability. The societal implications of this jurisprudence are particularly significant in an era of increasing privatization, where companies dominate essential services. If the judiciary continues to uphold a strict separation between the corporate personality (company) and its officers, weaker sections of the society such as employees, consumers and creditors may be left vulnerable.

This article, thus, uses the case of Dhanush Vir as a focal point to examine the contours and trends of the corporate veil doctrine in India, its interaction with constitutional principles, and its broader social implications. By situating the case within both private law and constitutional jurisprudence, the analysis aims to evaluate whether the current judicial approach adequately balances corporate autonomy with accountability in a society, increasingly shaped by corporate power.

This article is structured into four parts with the first part providing a doctrinal overview of the corporate veil in Indian jurisprudence, tracing its historical foundations, exceptions, and policy rationale. The second part discusses the case of Dhanush Vir, examining the facts, judicial reasoning, and implications for civil liability, with attention to societal impact. The third part explores the intersection of corporate personality with

constitutional principles, particularly under Article 12, and situates the case within broader debates on accountability and fundamental rights. The final part offers comparative insights, reflecting on international approaches to corporate accountability and potential reforms, and concludes by discussing the implications of maintaining corporate separateness for law, governance, and society.

2. Corporate Veil Doctrine in India

2.1 Introduction to the Corporate Veil Doctrine

The doctrine of corporate veil refers to the legal distinction between a company – as an independent legal entity and its officers – and forms a significant cornerstone of modern corporate law. The principle thus ensures that it is the company itself, rather than its officers, that is held accountable and liable for activities undertaken in respect of the operations of the company. The principle of corporate veil can be jurisprudentially and internationally traced back to the decision rendered in the case of *Salomon* v. *Salomon & Co. Ltd.*,[5] where the House of Lords affirmed the principle that a company upon its incorporation possesses a separate legal personality that is distinct from its shareholders. This principle has, thereafter, been adopted and adapted in multiple jurisdictions, including Indian Law.

Section 9 of the Companies Act, 2013 [hereinafter referred to as "Act"] codifies under Indian Law, the aforementioned principle by providing,

"*From the date of incorporation mentioned in the certificate of incorporation, such subscribers to the memorandum and all other persons, as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession with power to acquire, hold and dispose of property, both movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name.*"[6]

The corporate veil, therefore, protects shareholders and officers from personal liability for the company's debts, except in specific, narrowly defined circumstances.

2.2 Historical Development of the Corporate Veil Doctrine in India

The Supreme Court of India [hereinafter referred to as "SC"] recognized the aforesaid principle in the year 1950 in *Chiranjit Lal Chowdhuri v. The Union*

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[5] *Supra* note 2.
[6] Companies Act, 2013 (Act 18 of 2013), s. 9.

of India[7], and thereafter, reaffirmed the same at length in *Bacha F. Guzdar v. CIT, Bombay* in 1954.[8] In both the instances, the court observed that the identity of the company was separate from that of its shareholders. Over the years, Indian courts have articulated that while the corporate veil is generally sacrosanct, it is not inviolable. In the State *of U.P. v. Renusagar Power Co. Ltd.* (1988), the Supreme Court recognized that although a company is distinct, the veil may be pierced where misuse, fraud, or statutory violation occurs.[9] Similarly, in *Life Insurance Corporation of India v. Escorts Ltd.* (1986), the Court had emphasized that the doctrine protects business actors while simultaneously allowing judicial scrutiny to prevent misuse.[10] Thereafter, the principle has constantly been applied and evolved by the judiciary of the country, but with multiple recognized exceptions which were required to be created for conclusively delineating the principle of corporate veil as well, which have been discussed at a later stage of this article. For instance, in the case of *State of Rajasthan v. Gotan Lime Stone Khanij Udyog Pvt. Ltd.*[11]*,* the Supreme Court pierced the corporate veil to hold that the real substance of the transfer in question was the impermissible transfer of a mining lease without the approval of the State Government. Furthermore, in the case of *State of Karnataka v. Selvi J. Jayalalitha,* the High Court of Karnataka pierced the corporate veil, where a chain of shell companies had been used to create a facade over the acquisition of assets in a corrupt manner.[12]

2.3 Statutory Provisions pertaining to the Doctrine of Corporate Veil in India

Before moving further, it is important to examine Sections 339, 210, 211, 212 and 216 of the Act for a meaningful discussion on the doctrine of corporate veil in India. Section 210 of the Act empowers the Central Government to order an investigation into a company's affairs if it receives a report from the Registrar, gets a special resolution from the company itself for investigation, or if it's in the public interest. Additionally, if a court or the Tribunal orders an investigation in any proceedings before it, the Central Government must initiate one. For this purpose, the government can appoint one or more inspectors to look into the company's affairs and report their findings.[13] Thus, the provision of Section 210 permits the Government (Ministry of Corporate Affairs) to lift the corporate veil of a company, on fulfilling of the conditions provided therein, as elucidated above. Section 211 of the Act, in

[7] *Chiranjit Lal Chowdhuri v. The Union of India*, [1950] S.C.R. 869.
[8] *Bacha F. Guzdar v. CIT, Bombay*, 1954 INSC 102.
[9] *State of U.P. v. Renusagar Power Co. Ltd.*, 1988 AIR SC 1737.
[10] *Life Insurance Corporation of India v. Escorts Ltd.*, 1986 AIR 1370.
[11] *State of Rajasthan v. Gotan Lime Stone Khanij Udyog Pvt. Ltd.*, AIR 2016 SC 510.
[12] *State of Karnataka v. Selvi J. Jayalalitha*, AIR 2017 SC (Supp) 481.
[13] Companies Act, 2013 (Act 18 of 2013), s. 210.

connection with the previous provision, establishes the Serious Fraud Investigation Office (SFIO) to investigate corporate fraud,[14] the process of which is carried out in accordance with the provisions of Section 212 of the Act. Under Section 212, the Central Government can order an SFIO investigation based on a Registrar's report, a special resolution by the company, the public interest, or a request from a government department. Once assigned, the SFIO must conduct the investigation according to specific procedures and submit a report to the Central Government.[15]

Section 216 of the Act, grants the Central Government, power to appoint an inspector to investigate a company's ownership when there are suspicions of financial interest or undue influence by certain individuals. The inspector examines beneficial ownership, financial interests, and potential undisclosed arrangements to protect shareholder interests and ensure good corporate governance.[16] This thus, serves as yet another provision, similar to Section 210, whereby the Ministry of Corporate Affairs can lift the corporate veil.

Section 339 of the Act establishes liability for fraudulent conduct of business during a company's winding-up proceedings. If a company's business was conducted with the intent to defraud creditors or for any fraudulent purpose, the National Company Law Tribunal (NCT) can declare that certain individuals are personally responsible for the company's debts and liabilities, even without limitation. This includes directors, managers, officers, or any other person knowingly party to the fraud.[17] Section 339, therefore, acts as a provision enabling the Tribunals constituted under the Act to lift the corporate veil.

2.4 Recognized Exceptions to the Doctrine of Corporate Veil

The foregoing discussion has established that while the doctrine of separate corporate personality is firmly entrenched in Indian law, it is not absolute. Moreover, the above situations are not the only ones where the corporate veil may be lifted by courts. Judicial rulings have established, as stated above, certain conclusive exceptions to the doctrine of corporate veil, where the same may be lifted:

i. *Fraud or Improper Conduct* - One of the principal grounds for piercing the corporate veil is the presence of fraud or other inequitable conduct. Courts will disregard the corporate entity when it is used as an instrument to evade legal

[14] Companies Act, 2013 (Act 18 of 2013), s. 211.
[15] Companies Act, 2013 (Act 18 of 2013), s. 212.
[16] Companies Act, 2013 (Act 18 of 2013), s. 216.
[17] Companies Act, 2013 (Act 18 of 2013), s. 339.

obligations, perpetrate deception, or commit illegality. For instance, in the case of *Delhi Development Authority v. Skipper Construction Company (P) Ltd. and Ors.,* the Apex Court lifted the corporate veil in a case involving multiple fraudulent companies being created for the purpose of using them as a cloak for carrying out fraud, holding the accused therein, directly liable for fraud.[18]

ii. *Sham Companies* - The corporate veil may also be lifted where the company exists merely as a sham concealing the true actors behind its operations. This exception allows courts to examine the substance and true nature of transactions rather than their form or external structure. The Apex Court in the case of *Tata Engineering & Locomotive Co. Ltd. v. State of Bihar*, applied this principle and reasoning while lifting the veil in a case pertaining to sham companies created for the purpose of tax evasion.[19] It is pertinent to also mention that tax evasion is yet another recognized exception to the doctrine of corporate veil in India, applied in situations similar to the above.

iii. *Agency or Instrumentality* - In situations, where a company functions as an agent or instrumentality of its officers or members, courts may pierce the corporate veil to hold the said officers or members accountable. This exception ensures that the corporate personality cannot be exploited to protect individuals from responsibility for their own actions.

iv. *Evasion of Legal Obligations* - The judiciary has also recognized, as an exception to the doctrine of corporate veil, situations where the company is used to circumvent and evade legal duties or statutory requirements, and this prevents the officers of the company from manipulating the corporate structure to evade the due process of law.

2.5 Doctrine of Corporate Veil in the Civil Law Context

The corporate veil is a principle that is primarily rooted in and applied to private law, which predominantly, in practical terms can be understood as civil law. In the civil law context, the doctrine serves the primary purpose of protecting and shielding the officers of a company, from personal liability for actions arising out of the day - to - day activities of the company. This principle aims at providing and ensuring a degree of certainty in commercial operations of the company, enabling and encouraging individuals to invest and participate actively, take risk without the looming threat of unlimited personal liability. For instance, in

[18] *Delhi Development Authority v. Skipper Construction Company (P) Ltd. and Ors.*, 1999 INSC 574.
[19] *Tata Engineering & Locomotive Co. Ltd. v. State of Bihar*, AIR 1965 SC 40.

the case of Dhanush Vir, as elucidated at length in the next section of the article, the High Court upheld the principle that directors could not be personally held liable for corporate debts in execution proceedings sans statutory or exceptional grounds.[20] This illustrates the civil law approach that this article discusses - a high threshold utilised and applied by courts for piercing the corporate veil, which reflects the general trend and preference of the judiciary towards preserving the distinct nature of the corporate entity, while allowing limited judicial intervention in the event of exceptional situations.

2.6 Doctrine of Corporate Veil in the Constitutional Law Context

In the constitutional law domain, the corporate veil aids greatly in determining the scope of application and accountability under Article 12, which defines the term "State" for the purposes of enforcing the fundamental rights of citizens enshrined under Part III of the Constitution. Judicial interpretation has generally excluded private corporations from being treated as "State" actors, except in situations where the company is subject to "deep and pervasive control" by the government, or is performing functions that are essentially public in nature. The Apex court through various rulings, including those of *Pradeep Kumar Biswas v. Indian Institute of Chemical Biology* and *Zee Telefilms v. Union of India* have reaffirmed this principle, which shall be discussed at length at a later section of the article.

The interplay between civil and constitutional contexts with regards to the corporate veil, reveals a trend in the rulings of the judiciary that favours commercial stability and certainty. However, it also exposes lacunae in terms of societal protection, whereby creditors and small stakeholders may face hardships in enforcing their claims, which is the aspect this article seeks to explore in the upcoming sections.

3. Case Study: *Dhanush Vir Singh* v. *Dr. Ila Sharma & Ors.*

The case of Dhanush Vir,[21] stands as a strong example of the application of the doctrine of corporate veil by the judiciary in India in contemporary times, where the Allahabad High Court addressed whether directors or representatives of a company could be arrested or detained to enforce a money decree against the company.

In the case of Dhanush Vir, the Revisionist (Dhanush Vir Singh), in the capacity of General Manager and Branch Head, had been authorized by M/s Benett Coleman and Co. Ltd., [hereinafter referred to as "Company"] to enter into a lease agreement for a period of 9 years, and the lessee was entitled to terminate the lease by giving a notice of 3 months. The

[20] *Supra* note 5.
[21] *Ibid.*

lease agreement was terminated by the lessor on 22.04.2016 and a request was made to the Company to vacate the premises leased out and handover the vacant possession of the same within 30 days from the date of the notice. Furthermore, mesne profits to the tune of Rs. 2,500/- per day until actual handing over of the possession was also claimed by the lessor. The Company did not vacate the premises, and thus, a suit came to be instituted by the lessor, claiming eviction and recovery of mesne profits. Subsequently, the Company stated before the Trial Court that it was willing to hand over vacant possession of the land but it was the lessor who had refused to accept the same. Notwithstanding the above submission, the possession of the premises was handed over to the lessor on 01.10.2019, following which the suit was proceeded ex - parte and decreed on 05.08.2021, whereupon, the Company was directed to pay mesne profits as claimed by the lessor, to the tune of Rs. 2,500/- per day from the date the suit was filed till the date of delivery of possession (01.10.2019). Subsequently, an execution petition was filed by the lessor in order to seek execution of the aforesaid decree, and the Revisionist was impleaded, by virtue of him being the signatory to the lease agreement. Thereafter, a warrant of arrest was issued against the Revisionist on an Application by the decree holder (lessor), and the same was challenged before the High Court of Allahabad in the instant case of Dhanush Vir. Thus, the question before the High Court was "*whether the Directors/Authorized Representatives of a Limited Company be arrested and detained in Civil Prison for execution of a Money Decree against the Company or so to say whether the Directors/Authorized Representatives of the Company are bound in a representative capacity for the Judgment Debtor Company for the execution of the said Decree*".

The court, while allowing the Revision Petition, held *firstly*, that the provisions of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"], pertaining to the execution of a decree, attachment of property thereof, etc. were applicable only to the judgement debtor, which as the Company in the case at hand, and not the Revisionist. The court observed in this regard that the CPC does not provide for the execution of a decree against a Company, through its Employee/Representative/Director, and at most provides only for the execution of a money decree against a firm from the assets of its partner,[22] and the oral examination of an officer of a corporation to determine the assets of the corporation.[23]

Thereafter, the court examined the aspect of piercing the corporate veil and noted in clear terms that no ground for lifting the corporate veil existed in the present case. The case of *Tata Engineering and Locomotive Co. Ltd. v. State of Bihar* was referred by the court, in

[22] Code of Civil Procedure, 1908 (Act 5 of 1908), Order XXI, Rule 50.
[23] Code of Civil Procedure, 1908 (Act 5 of 1908), Order XXI Rule 41(1)(b).

which the Apex Court had observed that the veil was to be lifted only where dualism existed between a company and its members or shareholders.[24] On this basis, the court concluded that since it was the Company and not the Revisionist who was the judgement debtor, and the Revisionist was only the then General Manager and Branch Head and current Vice President of the Company, he could not be arrested, therefore, the trial court had committed a manifest error of law in issuing an arrest warrant against him.

This judgement, thus, reinforces fundamental principles of corporate separateness in civil enforcement proceedings, and not only delineates the boundary that exists between a corporate judgement debtor and its officer, but also affirms the high threshold that needs to be fulfilled under the law for courts to disregard corporate personality. The ramifications of this judgement furthermore, radiate to the society and the constitution as well, which the next section of the article seeks to examine.

4. A Comprehensive Analysis of The Doctrine of Corporate Veil

The decision of Dhanush Vir case, emulates the judiciary's reluctance to extend the doctrine of piercing the veil, beyond well-established categories. However, this judicial conservatism indicates a conflict within the private law: while courts recognize and accept that corporate structures may at times be misused, they are hesitant to erode the fundamentally recognized principle of separate legal personality. This is in striking contrast to the decision making observed in public law contexts, where courts have at times resorted to treating state - owned corporations as authorities under Article 12. The decision in Dhanush Vir reaffirms the approach of the courts that diluting the doctrine of corporate veil to ordinary disputes would generate unpredictability and discourage risk taking. However, this trend requires examination into the ramifications of the same, in non - private areas of the law.

4.1 Comparative Perspectives

An analysis of the Indian Position on the doctrine of corporate veil reveals that the courts in India have generally adopted a narrow and conservative approach towards lifting the corporate veil. Furthermore, a major problem/lacuna in the Indian jurisprudence on corporate veil is that no conclusive grounds or clear guidelines/parameters have been laid down as to when the veil shall be pierced and when it shall not.

[24] *Tata Engineering and Locomotive Co. Ltd. v. State of Bihar*, AIR 1965 SC 40.

The United Kingdom, as the originating jurisdiction of the doctrine of corporate veil,[25] has historically championed and emphasized on the sanctity of the same. However, thereafter, the courts have developed limitations and nuanced doctrines to dilute the rigidity of the principle.

The most significant contemporary development in this regard can be seen in the decision of the Supreme Court of UK in the case of *Prest v Petrodel Resources Ltd*[26], wherein, dealing with the question of marital property rights of a person, the court observed that the corporate veil could be lifted when, the person in question is "*under an existing legal obligation or liability or is subject to an existing legal restriction*" and "*they deliberately evade the obligation/liability/restriction, or whose enforcement they deliberately frustrate by interposing a limited company under their control*". This test known as the Prest Test, has been consistently followed and applied by courts in the UK, since 2013. Notably, Lord Sumption in this decision, laid down the "evasion principle", and the "concealment principle", where he expounded that the corporate veil may be pierced in situations where a company or companies are interposed in a transaction so as to mask the true principles of the transaction,[27] or where the company or companies are interposed to prevent a right against a member of the company from being enforced.[28]

This principle, although on a standalone basis, yet again does not seem to very conclusively provide a clear parameter to guide courts on when to and when not to pierce the corporate veil;[29] it has been consistently applied by courts subsequently,[30] leading to a clear visible judicial trend in the UK, which is conspicuously absent in India. Furthermore, the UK approach also indicates and recognizes that strict adherence to *Salomon* can at times be counterproductive to the ends of justice.

As opposed to the Indian and British approaches to piercing the corporate veil, American courts have shown much more flexibility in piercing the veil. The "instrumentality" or "alter ego" doctrine has significantly shaped the development of the

[25] *Supra* note 2.
[26] *Prest v Petrodel Resources Ltd* [2013] UKSC 34.
[27] Concealment Principle.
[28] Evasion Principle.
[29] The Road To Prest v Petrodel: An Analysis of the UK Judicial Approach to the Corporate Veil - Part 1, *available at:* https://repository.mdx.ac.uk/download/48460a54cbb363a8dc7820efbb565623b400f9714a07cd53668de2547f836afa/552981/The%20Road%20To%20Prest%20v%20Petrodel-accepted-inpress.pdf (last visited on Aug. 28, 2025).
[30] *Rossendale Borough Council v Hurstwood Properties Ltd*, [2019] EWCA Cov 364; *Inter Export LLC* v *Townley* [2019] EWCA Civ 2068.

law on corporate veil in the USA, and is used to impose liability on shareholders and directors, where the corporation in question has been created solely as a facade for individual operations.

Professor Frederick Powell, in his 1931 work, "Parent and Subsidiary Corporations", formulated what came to be known as the "Powell Rule"[31], and this includes three major aspects - the instrumentality rule, improper purpose (defendant's fraud or wrong), and unjust loss or injury. The instrumentality rule, often referred to as the "alter ego" doctrine, establishes that a subsidiary company or corporation does not function merely as an independent entity, but rather is an extension of the parent company and operates "*under the domination and control and for the purposes of*" the parent corporation.[32] Furthermore, to ensure predictability and consistency, Powell identified certain situations where the subsidiary shall be construed as an instrumentality of the parent company. Those situations include where ownership of all or most of the stock of the subsidiary is held by the parent; there is a common board and/or management and financing of the subsidiary; exclusive capital subscription by the parent or incorporation of the subsidiary by the parent; where subsidiary has grossly inadequate capital; where payment of expenses or losses, including salaries is managed by the parent; when subsidiary has no substantial, independent business except with the parent; when assets of subsidiary are wholly contributed by the parent; when in the parent's internal documentation subsidiary is defined as a unit thereof or description of its business or financial responsibilities as the parent's own; when subsidiary's property is used by the parent, as if, it is owned by the parent; when board or management of the subsidiary is not independent, and the subsidiary is merely executing organ for orders from and in the interest of the parent; and there is a lack of observance of formalities for constitution of the subsidiary.[33] The second and third aspects of Powell's Rule, namely the existence of an improper purpose, and the unjust loss or injury form equally important aspects of the rule, and are also qualified by multiple criteria laid down by Powell himself. For instance, Powell laid down 7 criteria to determine an improper purpose, including misrepresentation, violation of a statue, actual fraud, etc.[34] After Powell's Rule, other evolved rules such as Krendl's Theory, have also laid down selected and settled parameters to be

[31] *Cathy S. Krendl and James R. Krendl*, "Piercing the Corporate Veil: Focusing the Inquiry" 55 *Denver Law Journal* 1 (1978).
[32] *Ibid.*
[33] Dante Figueroa, "Comparative Aspects of Piercing the Corporate Veil in the United States and Latin America" 50 *Duquesne Law Review* 683 (2012).
[34] Mark S. Cohen, "Grounds for Disregarding the Corporate Entity and Piercing the Corporate Veil" 45 *American Jurisprudence Proof of Facts* 11 (1998).

applied by the courts.[35] Thus, the fundamental principle that is applied to pierce the corporate veil in American Jurisprudence has a higher degree of predictability, conclusiveness and certainty as opposed to the Indian approach.

Another aspect that seems to have been largely overlooked in the Indian jurisdiction is the question of whether a single director can be considered to be a co - conspirator with a company. This question was addressed in *Nagase Singapore Pte Ltd v. Ching Kai Huat* by the High Court of Singapore,[36] wherein, relying upon a judgement of the Irish Court of Appeal in *Taylor* v. *Smyth*,[37] it was held that nothing precluded a company from being a co - conspirator with a single director.

4.2 Constitutional and Societal Impact of the Judiciary's Approach to Piercing of Corporate Veil in India

As stated in previous sections, the doctrine of corporate veil, although rooted in private law, has acquired a significant constitutional dimension as well as societal dimension in India. Indian Constitutional Jurisprudence has extended the reasoning and purpose of the doctrine of corporate veil piercing into public law as well, and this can be most visibly seen in the interpretation of Article 12 of the Constitution of India which defines "state" for the purposes of Part III which lays down the fundamental rights of citizens.[38] The judiciary has, through various decisions, using a combination of purposive interpretation and innovation, used the corporate veil doctrine's reasoning to ensure that entities that are otherwise shielded under the corporate veil, do not escape liability and accountability when the actions performed by them are actually public functions. The Apex Court of the country has held at multiple instances that the determination and analysis of whether or not an entity shall fall under the meaning of "state" under Article 12 will require an examination beyond its legal form.[39] This reasoning can be compared as having echoed the metaphor of the corporate veil, wherein the separate juristic personality of the entity was disregarded.

This reasoning of the Supreme Court was further expanded in the case of *Ajay Hasia v. Khalid Mujib Sehravardi* where Justice Bhagwati expounded that the test to be seen was not the way/form of incorporation of the entity, but the degree of government control and the

[35] *Supra* note 30.
[36] *Nagase Singapore Pte Ltd v Ching Kai Huat and Others*, [2007] SGHC 169.
[37] *Taylor v. Smyth*, [1991] 1 IR 142.
[38] The Constitution of India, *art. 12*.
[39] *Rajasthan State Electricity Board v. Mohan Lal*, AIR 1967 SC 1857 – The Supreme Court held that the Rajasthan State Electricity Board, though a statutory corporation, would fall under the ambit of Article 12 since it exercised the power of statutory compulsion.

nature of functions discharged.[40] A similar approach has also been taken in other subsequent decisions.[41] This approach of the Supreme Court illustrates that the doctrine of piercing of corporate veil, although not expressly and explicitly invoked in the context of Article 12, underpins the judicial reasoning and methodology followed while deciding a question of the scope of Article 12.

Notably, the public law application of veil - piercing under Article 12, is grounded in the agency/instrumentality test, where courts have looked into various factors such as the extent of government funding, the nature of functions (public versus private), the existence of deep and pervasive control, and whether the body enjoys monopoly status conferred by law. This rationale and reasoning can be seen to be significantly similar to the private law instrumentality rule as highlighted above, but is tailored to constitutional goals. In the sphere of constitutional law, the purpose of piercing the veil is to prevent the State from evading its responsibility to uphold fundamental rights while in the private law sphere, the goal is to prevent – evasion of responsibilities under the law, fraud and misuse of corporate personality. Thus, while in private law, the doctrine operates to protect creditors and minority shareholders, in public law, it serves the objective of ensuring that the fundamental rights of citizens are not breached. Yet another judicial trend can be seen in decisions such as *State Trading Corporation v. CTO*, where the Apex Court held that corporations, even if state owned, would not be a citizen for the purposes of Article 19 of the Constitution which provides the fundamental right to *inter alia*, carry on profession freely.[42]

Another significant judicial ruling dealing with the public law aspect of piercing the corporate veil under Article 12 can be seen through the Bombay High Court's decision in *M. Yogeshwar Raj v. Air India Limited*,[43] wherein, it was held that Air India, by virtue of its privatisation, would no longer be amenable to writ jurisdiction for want of performing a public duty. However, it is pertinent to note that the aforesaid case, dealt with a situation wherein, the privatisation of Air India took place during the pendency of the writ petitions before the High Court. Thus, it follows that the implication of the judgement of the Bombay High Court, is that the privatisation of Air India, led automatically to its liabilities ceasing to exist, raising a question as to the larger societal impact of the same. This judgement further stands as a striking example of the inconsistent approach taken by the judiciary with respect

[40] *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722.
[41] *Pradeep Kumar Biswas v. Indian Institute of Chemical Biology*, (2002) 5 SCC 111.
[42] *The State Trading Corporation of India Ltd. & Others v. The Commercial Tax Officer, Visakhapatnam & Others*, 1963 INSC 157.
[43] *M. Yogeshwar Raj v. Air India Limited*, 2025:BHC-OS:14229-DB.

to the piercing of the corporate veil in the public law context, wherein, a mere technicality was used by the court to absolve an entity of allegations of breach of fundamental rights.

From a societal perspective, the piercing of the corporate veil promotes accountability wherein citizens are not left remediless merely because of the corporate veil. From the point of view of Article 12, this ensures the fact that the entity violating their rights is a government body, and not the State in its formal sense, does not on its own render them remediless; while in the private law realm, it ensures that creditors and shareholders are not left remediless where their interests have been jeopardized. The doctrine also further strengthens the constitutional mandate of social justice, by ensuring that no discrimination takes place among one class of citizens as opposed to another, in the private as well as public realm. However, practically, it can be seen that the courts follow a largely inconsistent approach to piercing the corporate veil and remain reluctant in most cases to do the same as well, as observed in the case of Dhanush Vir.

The recognition of a company as a separate legal person, no doubt allows the concentration of economic power, encourages the accumulation of capital, and encourages and facilitates entrepreneurship in a much-needed manner. However, these benefits come at the cost of diluted responsibility, which enables actors in companies to externalize the harm caused by their operations onto weaker sections of the society. This can be seen not only in cases such as the Bhopal Gas Tragedy, but also in purely corporate law instances such as the case of *Tata Consultancy Services Limited* vs *Cyrus Investments Pvt. Ltd.*, where the interests of shareholders was impacted to such a high degree that the Supreme Court at the end, pierced the corporate veil.[44] The doctrine has also, it can be argued, contributed to widening economic disparities where companies by protecting members from liability can engage in dubious ventures with limited personal exposure, and where the veil is left intact, due to inconsistent judicial approach, companies may shield themselves from labor law obligations, environmental responsibilities and taxation duties, etc. The challenge therefore lies in laying down and designing a comprehensive corporate veil doctrine that safeguards legitimate business interests of corporations, while preventing their abuse at the same time. Judicial decisions reflect greatly this need of the hour. Illustratively, in *Vodafone International Holdings v. Union of India,* the Supreme Court refused to lift the veil in a taxation dispute on the ground that certainty was essential for foreign investors, yet, critics argue that such reluctance and restraint prioritizes capital flow as opposed to social and

[44] *Tata Consultancy Services Limited vs Cyrus Investments Pvt Ltd*, AIRONLINE 2021 SC 179.

distributive justice.[45] On the other hand, in *Life Insurance Corporation of India v. Escorts Ltd.*, the court recognized the need of transparency in corporate structures where public interest is at stake,[46] and this oscillatory approach of the judiciary is precisely what needs to be re-examined.

5. Conclusion

The Indian experience demonstrates that veil piercing cannot be treated as a purely private law remedy. When companies engage in activities with significant public ramifications and consequences, the doctrine leads to an impact in a constitutional and societal dimension. This requires the courts to employ an approach that takes into account the context of the situation, guided not only by corporate law principles but also by constitutional values.

For instance, environmental regulation offers a ground for a public law-oriented veil doctrine. With companies increasingly responsible for ecological degradation, courts ought to see if directors and parent entities are accountable. Similarly, in the domain of labor rights, piercing the veil could prevent employers from hiding behind corporate structures to avoid statutory obligations.

The constitutional and societal impact of the corporate veil thus lies in its capacity to balance autonomy with responsibility. The Indian judiciary has already begun to recognize this, though its approach remains fragmented. A more coherent doctrine—one that integrates constitutional principles with societal imperatives—would strengthen both the rule of law and public trust in corporate governance. However, the author would also like to state as a concluding note, that it is essential to ensure that the functioning of a company is not affected in any manner, and that the corporate veil is pierced only when sufficient reasons exist for the same, while simultaneously balancing societal and constitutional questions surrounding the same.

[45] *Vodafone International Holdings BV v. Union of India*, 2012 (6) SCC 757.
[46] *Supra* note 9.