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PUBLIC- PRIVATE PARTNERSHIP FOR GOOD GOVERNANCE

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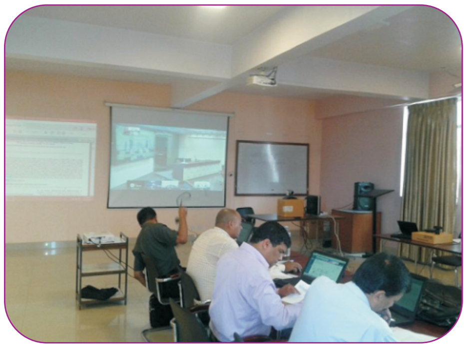
ABSTRACT :



Post-independence India started with a Nehruvian model of development, which assigned a key role to industrialization programme with state-owned heavy industrial enterprises. Private sector was subjected to stringent quota and rules of licence-permit regime. Within a decade or so, it was revealed that state enterprises were losing full-blown initiatives. Administrative- political bottlenecks and corruption stood in the way of socio-economic development and inadequate infrastructural growth became glaring. Soon it was experienced that the Public Sector Units (PSU) could not survive without heavy doses of subsidies to make up for their losses. By the end of the l980a the grind came to almost a halt and there was acute crisis in India's foreign exchange reserve and balance 'of payments. Government failures as well as market failure, especially in infrastructure development and social services, were primarily responsible for the crisis. The 1990s therefore witnessed a conscious retreat of the State as gradually the realization dawned that there were other ways of seeking national prosperity.

KEYWORDS :*Public- Private Partnership , industrialization programme , Nehruvian model .*

INTRODUCTION

The policy initiatives on the lines of public-private partnership emerged as the possible alternative to utilize the beat of both worlds while overcoming the specific weaknesses of each. The new public management philosophy came "end-in-hand" with the ideology of Good Governance in the 1990s. In theory, the proposal of a paradigm shift in public administration and management of development produced the policy of public-private partnership (PPP) which made governmental functioning more oriented to free market tests and introduced privatization of PSUs wherever necessary. The consequent reforms programme Included market-oriented, consumer friendly, competitive public administration, reducing government regulations, decentralizing authority, Improving PPP, which were not meant to dilute the government's., responsibility and accountability. The government remains accountable for providing services, their quality, prices and cost-effectiveness.

The new philosophy of public administration views the state as the facilitator and enabler whereas the private sector plays the role of financier and expertise-provider. The PPP approach visualizes an administrative scenario where the experience, resources, skill and expertise of public and private sector arc combined in order to deliver higher standard of service to the consumers. The public sector provides stable, democratic governance,

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citizens' support, partial financing and socio-political as well as environmental risk-taking. The private sector contributes access to additional finances, operational efficiency, innovative technologies, managerial efficiency and operational-cum-commercial risk-taking in project-management.

CONCEPTUAL FRAMEWORK

PPP entered the vocabulary of Public Administration in India in the wake of the New Economic Policy (1991), which heralded a shift from the public sector to private sector, and of Globalization, along with Good Governance ideology. The academic discipline of Public Administration in the West witnessed the paradigm shift towards liberalization, privatization and globalization (LPG) sometime in the late 1970s. The theorists of the New Right and New Public Management (NPM) adopted the LPG model of development and the World Bank Ideology of Good Governance. The basic objective in these theoretical exercises is to roll back the State and downsize the public bureaucracy with reduced powers. The stated purpose is to pave the way for efficient delivery of public services through privatization. The idea of PPP is the theoretical baby of this new -theory of governance, which has gained popularity in India since the early 1990s.

The basics of PPP, however, are not a recent innovation in administrative practice. In many countries including India, private management of public service-related work, was the standard practice at the municipal level. The practice of the government contracting out public works like construction and repair of roads, bridges, canals, small dams and minor irrigation projects, and leasing out government land to private agencies for a fee for markets, fairs, public conveniences and so on has been followed earlier in many countries. The PPP approach was, however, catapulted to the centre-stage of public policy and administration as an inevitable development strategy in the developing countries only because of the bandwagon effect of Globalization model of development. PPP projects have multiple stake-holders involved such as public sector, citizens, private sector, state and central governments. They have different objectives: while public sector seeks to improve access to service, increase efficiency and quality of services, citizens are interested in reduced costs and better services; private sector aims at the most optimal costs and better services, private sector aims at the most optimal balance between risks taken and profitability achieved. Regulatory reforms require a partnership between government and private enterprise in pursuit of national goals.

Although appearing as a simple concept, PPP is essentially a complex concept in modem management theory. Its theoretical implications for democratic governance and decentralized development would be clear only after examining the key concepts involved in the new approach qf PPP, such as public vs. private domain (state vs. market debate), single vs. multiple publics, common good vs. individual good, state vs. civil society.

PPP

Public-Private Partnership (PPP) is always based on a formal and legal agreement for collaboration between a public authority (the central, regional or local government or public corporation and so on) and a private entity in the market (a domestic or foreign business house or some corporate body like MNC or Chamber of Commerce or NGO and so on) for some specific purpose like creating public asset or providing public service. The partners agree on the modus operandi for pooling of resources (funds, technology and expertise) for delivering specific public goods arid services and/or building some public asset. PPP is simply an arrangement between the government or government agency and a private sector entity in which public activities, partially or traditionally, are performed by the private sector. PPP is a policy decision and initiative of the government at any level to promote public interest and public good. Alternatively, PPP refers to long-term, contractual partnership between the public and private sector agencies, specially targeted towards financing, -designing, implementing and operating infrastructure facilities and services that were traditionally provided by the public sector.

The term "private" in PPP encompasses all non-governmental agencies such as the corporate sector, voluntary organizations, self-help groups, partnership firms, individuals and community-based organizations.

The PPP approach seeks to ensure people's (i.e. private party's) participation to overcome the "democratic deficit" through good governance and a more engaged citizenry. Such participation will meet the developmental goals of improving communities and service delivery. PPP satisfies the twin needs of better provisioning of public services and optimal allocation and usages of resources. State-society synergy can be a catalyst for development as

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civic engagements among ordinary citizens ban be promoted by public agencies and used for development end. As A.P.J. Abdul Kalam has pointed out in his book India 2020: A Vision for the New Millennium, while individual effort is crucial, another golden triangle of industry-government-R&D institutions really forms the base of the country's development.

While adopting a PPP scheme, the "public" party (the principal) has to solve the principal-agent dilemmas to find the best way to create appropriate incentives for the "private" party (the agent) to deliver the desired outputs.

That is to say, the PPP approach always implies facing a trade-off between the efficiency gains achieved by involving the "private" party and the output quality expected by the "public" party. Thus, the PPP option should be chosen only if the benefit-cost ratio of private provision outweighs the results obtainable with "traditional" government intervention. Even higher costs will be acceptable, if overall net benefits justify the PPP solution.

BENEFITS OF PPP

The potential benefits expected from PPP may be mentioned as below: 4

Cost-Effectiveness-Since selection of the developer/service provider depends on competition or some bench marking, the project is generally more cost-effective than previous project. The specific benefits include

(1) Higher productivity-By linking payments to performance, productivity gains may be expected within the programme/project.

(2) Accelerated Delivery-Since the contracts generally have incentive and penalty clauses vis-a-vis implementation of capital projects/programmes this leads to accelerated delivery of projects.

(3) Clear Customer Focus-The shift in focus from service inputs to outputs creates the scope for innovation in service delivery and enhances customer satisfaction.

(4) Enhanced Social Service-Social services to the mentally ill, disabled children and delinquents etc., require a great deal of commitment than sheer professionalism. In such cases, it is Community/Voluntary Organizations (VOs) with dedicated volunteers who alone can provide the requisite relief.

(5) Recovery of User Charges-Innovative decisions can be taken with greater flexibility on account of decentralization. Wherever possibilities of recovering user-charges exist, these can 'be improved in harmony with local conditions.

CRITIQUE OF PPP

Although the PPP model has proved beneficial in a number of cases, there are some major criticisms of it. First, the private sector's goal of profit maximization does not set well with the public body's goal of welfare maximization. The possibility of private partner not to provide' right quality is, however, due to the inability of the public partner to monitor performance. Secondly, PPP does not strengthen 'public accountability, because the private sector is not publicly accountable. Moreover, when a scheme is not completed within the agreed time-table, the electorate and the elected representative cannot influence policy direction; this factor weakens the political linkages. A further concern is with regard to a' lack of transparency compared to service delivery by the public sector. Thirdly, when power is devolved to local government, the local authorities generally do not have the technical wherewithal to manage a private sector. Fourthly, it is sometimes apprehended by the 'employees' unions in public sector that shifting of traditional government function to private sector management leads to public employees losing their jobs. Lastly, it is argued that the trade-off between public welfare maximization and private profit maximization might exclude some sections of the citizens. But this is not always correct, because increasing operational efficiencies and efficient management practice generate public welfare and simultaneously maintain profits.

PPP AND PRIVATIZATION

PPP differs from privatization. Whereas PPP refers to private management of public services through long-term contract between a private operator and a public authority, privatization involves outright disinvestments in, or sale of, public service or utility to private sector. Public-private partnership should not be seen as public partnership in private projects: It should rather be viewed as private partnership in public projects.

PPP does not dilute the responsibility and accountability of the government. In this collaborative arrangement, the government remains accountable for ensuring the standard of service quality, price certainty and cost effectiveness. In the PPP venture the government's role is reflected as one of "facilitator" and "enabler", while the private sector plays the role of financier, builder and operator of service. The public agency or government contributes assurances for stable governance, citizens' support and financing, besides assuming social, environmental and political risks. The private sector brings in operational efficiencies, innovative technologies, managerial effectiveness, access to additional finances, and assumes construction, commercial and operational risks of the projects.

Socio-economic development critically depends on infrastructural development, which in turn, is directly linked to availability of right quality and quantity of infrastructure. Non-availability of infrastructure in right quality and quantity adversely affects all sectors of the economy-primary, secondary and tertiary-and also imports and exports, standard of living and per capita income.

As defined by the World Bank, "infrastructure" is an umbrella concept involving many activities referred to as "social overhead capital". It includes public utilities like power (energy), telecommunication, piped supply of suitable water, sanitation, sewerage, solid waste management, piped gas, etc.; public works like roads and highways, major dams and canals for draining and irrigation; and transport facilities like urban and inter-urban railways, trams, underground railways, overhead monorails, bus service, ports, and the waterways.

Infrastructure is also defined as the physical framework of facilities through which goods and services are provided to the public. Infrastructure linkages to the economy are multiple and complex, because it affects production and consumption directly, and creates negative and positive spillover effects. It contributes to economic development, both by increasing productivity and by providing amenities, which enhance the quality of life.

In narrow terms, infrastructure services include three basic services viz, transport (roadways, railways, airways and water transport), power (generation, transmission, distribution) and communication. In broader terms, it also includes social infrastructure services covering education, medical care and other primary services.

INDIA'S EXPERIENCE OF PPP

As early as the 19th century India had some experiments of PPP. Great India Peninsular Railway operating between Bombay and Thane (1853), Bombay Tramway Co. running services in Bombay city (1874) and the electricity generation and distribution companies in Bombay and Calcutta in the early 20th century are some of the earliest examples of PPP in India.

The growing importance of the private sector in economic matters and the consequent increase in the sensitivity of the economy to business cycle fluctuations was first officially recognized in the Tenth Five Year Plan. Very soon a reappraisal of the role and the manner of macro-economic management was made. The key principles formulated were introducing well- enforced user-charges, exploiting new technologies, private sector production, and a regulatory framework to foster competition. The wide scope for strengthening PPP in the delivery of health care services was specifically underlined. The Economic Survey of 2003-04 referred to the wide scope for more involvement of India's several thousand NGOs in implementing many government schemes in social sector.

Government of India realized in the mid- 1990s that the availability of quality and efficient infrastructure services is essential for accelerating economic development in the country. In 1995 Rakesh Mohan Committee was appointed on India's infrastructure needs. The Committee on Infrastructure with the Prime Minister as the chairman was set up in August 2004 for initiating policies that could ensure time-bound creation of world-class infrastructure and service delivery on international standards, and for maximizing the role of PPP. Another committee on infrastructure finance was set up in December 2006 under the chairmanship of Deepak Parekh to make detailed recommendations on infrastructure finance.

The Government of India has identified the following six infrastructure sectors: (i) Highways, (ii) Railways, (iii) Ports, (iv) Airports, (v) Telecommunication, and (vi) Power. The Committee on Infrastructure estimated that infrastructure development would cost an investment of Rs. 14.5 lakh crore ($320 billion) during the Eleventh Plan (2007-12) period in the six sectors identified for PPP.

As for the financing pattern of PPP, the Government's policy decision, inter-cilia, is to provide one-time grant as Viability Gap Funding to make the PPP projects commercially viable. This gap funding is normally not to exceed 20 percent of the project cost and an additional 20 percent may be funded by the Government .in special cases. .

As for administrative preparation, PPP Approval Committee has been set up as per decision of the Cabinet Committee on Economic Affairs in October 2005. The Approval Committee consists of the Secretaries of Department of Economic Affairs, Planning Commission, Department of Expenditure, Department of Legal Affairs and of the sponsoring Department of the Government.

So far the policy decision is concerned, the distinction between the public (governmental) and private (market) spheres of life has been liberalized, and the private domain has become wider than before o as to include civil society organizations, foreign companies and even MNCs within its scope.

Since the opening of the economy in 1991 there have been several cautious and tentative attempts at PPPs in India. Most PPPs have been tried in the roads sector large private financing in water supply has so far been limited to a few cities like Visakhapatnam (Andhra Pradesh) and Tirupur (Tamil Nadu).

The Delhi-NOIDA Bridge Project, implemented on a BOOT framework and involving US $100 million is India's first major PPP initiative. Examples of other important PPP projects are found in port development and telecom Industry. However, water supply and sanitation projects arc yet to' demonstrate their commercial viability.

CONSTRAINTS ON PPP EXPERIMENT

The Economic Survey of India (2007-08) has noted that while encouraging PPPs, the Government has identified some hurdles and constraints:

1. Policy and regulatory gaps, especially relating to specific sector policies and regulations;
2. Inadequate availability of long-term finance (10 years plus), both equity and debt;
3. Inadequate capacity in public institutions and public officials to manage PPP processes:
4. Inadequate capacity in the private sector, both in respect of developer/investor and technical manpower;
5. Inadequate bankable capacity infrastructural projects that can be bid out to the private sector;
6. Absence of regulatory authorities and the desired legal framework; (vii) inadequate advocacy to create greater acceptance of PPPs by the public.

Besides these officially-noted constraints, there could be others. PPP projects are vulnerable to become an important source of "transactional corruption" by which political parties amass funds for buying votes. All these have to be identified and addressed through policy mechanisms, institutional arrangements, legal and regulatory framework, capacity-building, oversight, transparency and properly worked out sets of incentives and disincentives. PPP has high potentiality of contributing to economic development and meet infrastructure gaps in India. But, as the Union Government itself concedes, "PPPs are not a panacea. They represent a claim on public resources that needs to be understood and assessed by the Government, arid are of the complex and long-term transactions in which mistakes in design can be costly.

The Dabhol experience in Maharashtra in the past has amply demonstrated how this apprehension can become a stark reality. In all PPP projects and arrangements the unexceptional requirements are to provide high and reliable service standards and, at the same time, ensure value for money to users. Such partnerships must yield savings in cost through adoption of appropriate and frontline technologies, innovative designs, timely project implementation, higher operational efficiencies, providing a good quality services to users as a result of adopting heifer managerial practices, and, importantly, development of cost-effective solutions.

From 2004 onwards the Government has started taking steps for instituting institutional arrangements and enabling framework. For example, a PPP cell has been created in the Department o Economic Affairs for taking initiatives relating to policy, schemes, programmes, capacity-building, legal framework requirements, coordination needs, guidelines development, and, so on. Secondly, a high-level appraisal mechanism for PPP projects has been evolved, streamlined and notified in the form of the PPP' Appraisal Committee for Central Projects. Thirdly, a website has been launched to serve as a virtual market place for PPP projects and an online data base has been developed to provide updated status information. 'Some state governments like Uttar Pradesh and

Karnataka have set up separate departments of infrastructure development as nodal agencies to oversee PPP projects. Other states have set .up high-level interdepartmental committees under the Chief Secretary for this purpose.

In India the widely used PPP form is either BOT or BOOT type. An overwhelming majority of the projects have been based on open and competitive bidding processes. Substantial experience has already been gained in PPP-based projects, but since many of these projects have long gestation periods or operational durations, a proper evaluation of input is yet to emerge."

LESSONS FOR INDIA FROM GLOBAL EXPERIENCE

As a relatively late entrant In the PPP development process, -India can- learn and benefit from global experience, especially the examples in United States, Mexico, Chile and the Philippines.

First, detailed policy and planning is needed to bolster the confidence and attract Participation of private investors and commercial lenders.

Second, strategic planning and management by the Government is essential. The PPPs are to be structured and planned, and managed by expert teams. Government should use technical and financial advisors, wherever needed.

Third, effective PPP models involve sensible division of roles and fair sharing of responsibilities, costs and risks between the public and private sectors.

Fourth, adequate protection needs to be provided to debt service against non-commercial risks related to regulatory changes, contract termination, etc.

Fifth, renegotiation and midway changes are to be avoided to save costs arid delays. The concession agreement should be so structured as to cover all possible causes of better adjustment. The tendency of the government getting enthusiastic to obtain private sector participation by offering excessively concessional terms to the private agency is to be avoided.

Sixth, public sector capacity to priorities, plan, appraise, structure, bid for financially viable PPPs remains the topmost challenge for mainstreaming of PPPs at the state as well as central levels.

Seventh, the support for the PPP program and for specific projects has to 'come from the highest political level of government. Strong political will is essential in overcoming resistance and as an assurance of the-government's intention to meet its contractual commitments.

Eighth, feedback and consultation with citizens, labour unions, relevant government agencies, private Investors, civil society organizations, and -media would go a long way to ensure support, client focus, and improved overall coordination in project formulation and implementation.

CONCLUSION

There are some PPPs that have not done well. The ill-fated Bangalore-Mysore Expressway project of Nandi infrastructure Corridor Enterprise is seven years behind schedule. The Delhi-Gurgaon Expressway has had its share of problems with cost overruns, failure to meet deadlines, and operational process of toll fee collection. There are also problems in deciding on optimum risk allocation. The unpleasant experience with the Enron Company in Maharashtra and the open bickering resorted to by its management is fresh in public mind. Consequently, the PPP fell through and Enron itself collapsed in the United States, proving good for India.

Some mistakes were made at the start of the PPP cases to guarantee certain percentage return. But these problems have been addressed. Moreover, all infrastructure PPPs are not monopolies. Yet Pipavav and Mundra ports offer solid competition and shipping lines are free to choose where they wish to berth. Gangavaram and Krishnapatnam ports on the east coast challenge established ports like Chennai and Vishakhapatnam.

Considerable work is needed to be done to create an enabling environment, which would not only attract private investment but also be seen to be in public interest. Services need to be provided at reasonable cost and in a transparent manner. This much has been conceded by the Government in the Eleventh Plan Approach Document. The Planning Commission has correctly concluded: "The key to making PPPs acceptable is to create an environment where PPPs are seen to be a way of attracting private money into public projects and not putting public resources in private projects." The rhetoric is fine, but the crux lies in balancing public acceptability, public need and public interests with reasonable pricing as well as fair returns to the investor. The Planning Commission's overzealous preoccupation with the PPP model has not gone well with the left parties in India. CPI (M) has severely criticized the abnormal enhancement of user charges in infrastructure and service sectors. Through PPP model "humongous" amounts are said to be transferred to private players in agriculture, education and health projects by way of fees and charges. The practice is objectionable because the amounts are literally subsidies to the private sector.

PPP presupposes a meticulous selection of projects and needs a judicious mechanism ensuring a trade-off between the efficiency gains and the output quality. The risk allocation between the Principal (public authority) and the Agent (private participant) must also be on a prudent basis. The optimum (not maximum) mix of risks incentives, user-charges, accountability, etc requires a great sense of proportion, on which hinges the success of any PPP. Private participation in infrastructure sector needs to be very cautiously arranged in order to avoid encouraging monopolies by private agencies in key social sectors like water supply, healthcare, education, transport and housing. Maximum transparency is needed at different stages of PPP transaction. Initially the right to information should enable the public to know the terms and conditions of transaction; secondly, the media should have access to monitor the implementation process; and thirdly, the informed public should have the data for evaluation of the project and assess the benefits accrued to public well-being. The Philippines government's efforts to achieve strategic transparency in Manila Water Supply project is an example of success story in management of PPP.

As Amartya Sen has forcefully pointed out in his book The Argumentative Indian, the bedrock of democracy is not the ballot box but argument, debate and deliberation that shape thinking in a democratic set-up. The PPP movement has had its fair share of controversy, debate and discussion and thus signaled that it has come of age democratically.

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