



FACULTY OF JURIDICAL SCIENCES

Course : BALLB , 3rd Semester

Subject : Administrative Law

Subject code : BAL306

Faculty Name : Ms Taruna Reni Singh

ADMINISTRATIVE LAW

UNIT I

- Definition, Nature and Scope of Administrative Law, Conceptual Objections to the growth of administrative Law
- Rule of Law, Separation of Powers
- Administrative discretion: Meaning, Need, and Judicial Control

UNIT II:

- Legislative Power of Administration: Necessity, Merits and Demerits,
- Constitutionality of Delegated Legislation; Legislative and Judicial Control of delegated
- Legislation

UNIT III:

- Principles of Natural Justice and their Exceptions Rule against Bias, Concept of Fair hearing
- Judicial review of administrative action through writs;
- Judicial control through suits for damages, injunction and declaration
- Administrative Tribunals: Need and reasons for their growth, characteristics, jurisdiction and procedure of administrative Tribunals.

UNIT IV:

- Liability of the administration: Contractual liability, tortious liability. Public Undertakings, their necessity and Liabilities, governmental Control, Parliament Control, Judicial Control
- Ombudsman: Lokpal and Lokayukta
- Right to information ACT, 2005 (S.1-S.20)
- Government Privilege to withhold evidence in public interest

Books

1. Wade, Administrative Law (VII Ed.) Indian Print, Universal
2. M.P.Jain, Principles of Administrative Law, Universal Delhi
3. I. P. Massey: Administrative law

LECTURE 20



The exercise of delegated legislative powers must be properly circumscribed and vigilantly scrutinized by the Court and Legislature is not by itself enough to ensure the advantage of the practice or to avoid the danger of its misuse. For the reason, there are certain other methods of control emerging in this field. The control of delegated legislation may be one or more of the following types: -

1) Procedural;

2) Parliamentary; and

3) Judicial control can be divided into the following two classes: -

- i) Doctrine of ultra vires and
- vi) Use of prerogative writs. Procedural Control Over Delegated Legislation

(A Prior consultation of interests likely to be affected by proposed delegated Legislation From the citizen's post of view the must beneficial safeguard against the dangers of the misuse of delegated Legislation is the development of a procedure to be followed by the delegates while formulating rules and regulations. In England as in America the Legislature while delegating powers abstains from laying down elaborate procedure to be followed by the delegates. But certain acts do however provide for the consultation of interested bodies. and sometimes of certain Advisory Committees which must be consulted before the formulation and application of rules and regulations. This method has largely been developed by the administration independent of statute or requirements. The object is to ensure the participation of affected interests so as to avoid various possible hardships. The method of consultation has the dual merits of providing

as opportunity to the affected interests to present their own case and to enable the administration to have a first-hand idea of the problems and conditions of the field in which delegated legislation is being contemplated.

(B) Prior publicity of proposed rules and regulations Another method is antecedent publicity of statutory rules to inform those likely to be affected by the proposed rules and regulations so as to enable them to make representation for consideration of the rule-making authority. The rules of Publication Act, 1893, S.I. provided for the use of this method. The Act provided that notice of proposed 'statutory rules' is given and the representations of suggestions by interested bodies be considered and acted upon if proper. But the Statutory Instruments Act, 1946 omitted this practice in spite of the omission, the Committee on Ministers Powers 1932, emphasized the advantages of such a practice.

(c) Publication of Delegated Legislation - Adequate publicity of delegated legislation is absolutely necessary to ensure that law may be ascertained with reasonable certainty by the affected persons. Further the rules and regulations should not come as a surprise and should not consequently bring hardships which would naturally result from such practice. If the law is not known a person cannot regulate his affairs to avoid a conflict with them and to avoid losses. The importance of these laws is realised in all countries and legislative enactments provide for adequate publicity.

(d) Parliamentary control in India over delegation In India, the question of

control on rule-making power engaged the attention of the Parliament. Under the Rule of Procedure and Conduct of Business of the House of the People provision has been made for a Committee which is called 'Committee on Subordinate Legislation'. The First Committee was constituted on 1st December, 1953 for

i) Examining the delegated legislation, and

ii) Pointing out whether it has

a) Exceeded or departed from the original intentions of the Parliament, or

b) Effected any basic changes. Originally, the committee consisted to 10 members of the House and its strength was later raise to 13 members. It is usually presided over by a member of the Opposition

MCQs

1. 'Committee on Subordinate Legislation'. The First Committee was constituted on _____?
 - a) 1st December, 1953
 - b) 1st December, 1954
 - c) 1st December, 1955
 - d) 1st December, 1957
2. Which are the controls for delegated legislation
 - a) Procedural;
 - b) Parliamentary; and
 - c) Judicial control
 - d) All of the above
3. Who among the following enjoys the rank of a Cabinet Minister of the Indian Union?
 - a) Secretary to the Government of India
 - b) Deputy Chairman of the Planning Commission
 - c) Deputy Chairman, Rajya Sabha
 - d) None of the Above
4. A person who is not a Member of Parliament can be appointed as a Minister by the President for a maximum period of
 - a) 9 months
 - b) 3 months
 - c) 12 months
 - d) 6 months
5. If in a country there happens to be the office of monarchy as well as a Parliamentary form of government this monarch will be called
 - a. Head of the State
 - b. Head of the Cabinet
 - c. Head of the government
 - d. Both Head of the government and State