



## **FACULTY OF JURIDICAL SCIENCES**

**Course : BALLB , 3<sup>rd</sup> Semester**

**Subject : Administrative Law**

**Subject code : BAL306**

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# 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 15



1) that the law provided for an amount (after 25th Amendment) to be given to the persons affected, which was non-justiciable; and

(2) that the property was to be acquired for a public purpose. In an early case, where the law vested the administrative officer with the power to acquire estates of food grains at any price, it was held to be void on the grounds, inter alia, that it failed to fix the amount of compensation or specify the principles, on which it could be determined. Since the matter was entirely left to the discretion of the officer concerned to fix any compensation it liked, it violated Article 31(2). The property under Article 31(2) could be acquisitioned for a public purpose only. The Executive could be made the sole judge to decide a public purpose. No doubt, the Government is in best position to judge as to whether a public purpose could be achieved by issuing an acquisition order, but it is a justiciable issue and the final decision is with the courts in this matter.

**In West Bengal Settlement Kanungo Co-operative Credit Society Ltd. V. Bela Bannerjee,(AIR 1954 SC 170)** the provision that a Government's declaration as to its necessity to acquire certain land for public purpose shall be conclusive evidence thereof was held to be void. The Supreme Court observed that as Article 31(2) made the existence of a public purpose a necessary condition of acquisition, it is, therefore, necessary that the existence of such a purpose as a fact must be established objectively and the provision relating to the conclusiveness of the declaration of then Government as to the nature of the purpose of the acquisition must be held unconstitutional. The Courts have, however, attempted to construe the term public purpose rather broadly; the judicial test adopted for the purpose being that whatever furthers the general interests of the

community as opposed to the particular interests of the individual is a public purpose. The general tendency of the Legislature is to confer the power of acquisition on the Executive in an undefined way by using vague expressions such as “purposes of the State” or “purposes of the Union”, so as to give wider latitude to the courts to uphold it. Thus, we have seen in the above illustrations how the courts have used the mechanism of fundamental rights to control the administrative discretion. In fact fundamental rights are very potential instruments by which the Judiciary in India can go a long way in warding off the dangers of administrative discretion. Judicial Control of Administrative discretion – The broad principles on which the exercise of discretionary powers can be controlled, have now been judicially settled. These principles can be examined under two main heads: a) where the exercise of the discretion is in excess of the authority, i.e., ultra vires; b) where there is abuse of the discretion or improper exercise of the discretion. These two categories, however, are not mutually exclusive. In one sense the exercise of the discretion may be ultra vires, in other sense the same might have been exercised on irrelevant considerations. As regards the ultra vires exercise of administrative discretion, the following incidents are pre-eminent: -