



FACULTY OF JURIDICAL SCIENCES

Course : BALLB , 3rd 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 2



Dicey :

Explain the French "Droit Administratif (Administrative law) and, compared it, with the "Rule of Law Concept" of England. In his masterpiece "Introduction to the study of the Law of the constitution" "he gave a brilliant exposition to the concept of 'Rule of Law' and contrasted that with the Administrative Law of France, and in this exercise administrative Law' became insignificant. Robson's book on Justice and Adm. law port's book on" Administrative Law", made the study of this subject more interesting in England.

Apart from these developments Lord Hewert's book '**New Despotism**' exposed the dangers of delegated legislation and forced the British Govt. to appoint the Donoghmore committee which suggested inter alia, to set up a select Committee on statutory Instruments. This committee published its report in 1932. **Allens** book '**Law & Order**' (1945) was a critical appraisal of the executive exercise of power. Besides, statutory Instruments Act (1946) and the Crown Proceedings Act 1947 gave the individual, better protection against the arbitrariness of the Executive.

Abuse of executive power is another aspect. The "Crichel Down" affair, forced the Govt, to appoint the Franks committee in 1955, and, on the basis of this "The Tribunals and Inquiries Act" was passed in 1958. This deals **with the procedures to be followed by every administrative body or agency.**

ii) U.S.A. :- Though the origin of administrative law in the USA can be traced 1789, still it is with the passing of the commerce Act" of 1877, that it took a definite shape. Authoritative writings like Franks Comparative Administrative law (1911), Fraud's Case book on Administrative law gave much impetus. A special Committee appointed in 1933, Report of

Roscoe Pound (1933) & Attorney General's Committee Report 1939, paved the way for the enactment of Administrative Procedures Act 1946.

The rules and the procedures provided for in this Act, should invariably followed by all administrative agencies and bodies, as otherwise the act of the agency will be quashed as ultra vires by the courts in the U.S.

i) India :- Historically it may be possible to trace the existence of and the

application of Administrative law to ancient India, and to the concept of Dharma. The king and the administrators followed Dharma which was more comprehensive than Rule of law. During the period of the East India Company and later under British regime many Acts, were made to increase governmental power. The modern system started with Stage Carriage Act 1861, under which the system of granting license was initiated.

Then followed a series of enactments to enlarge the powers of the Executive, authorities : Bombay Fort Trust Act (1879), The Opium Act (1878), The Explosives Act 1884 The Arms Act (1878) The Dramatic public performance Act 1876. Companies Act 1850 etc.

The era of judicial control started with the establishment of Supreme Court at Calcutta, Bombay, & Madras. Many enactments in the field of health, Labour, Public safety, and morality, Transportation and communication, Defence of India., etc, were made in the present century until 1947 when India became Independent.

Modern system :-

The modern system of Administrative Law started with the inauguration of the Constitution of India, and, the establishment of the Supreme Court at New-Delhi- The

philosophy of welfare state envisaged in the constitution, **ushered in, new dimensions of growth in the social, economic and political fields.**

The ownership and control of material resources of the society should be so distributed as best to sub-serve the common good of the community and the economic distribution should not result in concentration of wealth in the hands of a few individuals (Art 39 of the constitution), became the objective of Welfare State. Since independence, a large number of enactments have been made:

New administrative Agencies and bodies have been brought into existence In addition **a number of Administrative Tribunals have been established.**

Provisions are made in the Constitution (Art 32 & 226) empowering the Supreme Court and the High Courts in India to **issue writs, as-Constitutional remedies.**

This is the effective part of Judicial control of administrative action in India.

The recognition of Public Interest Litigation (PIL) by the Supreme Court in the **judges Transfer case (1981), Bandhana- Mukthi-Morcha case (1984), Hawala case etc added a new dimension and since then PIL is gaining** ground, as a process of participative Justice.

Administrative Law in India has grown considerably during these decades in the fields of delegated legislation. Rule of Law. Administrative Tribunals, Judicial control of administrative actions and remedies, Liability of the Government, Public Corporation.- Ombudsman Of course Lokpal Bill for **decades** has remained a Bill, and even in 2012 it may not see the light of the day.!

A strong political will is required to bring the Lokpal as a powerful institutional

Authority to deal with corruption, and the Lokpal Bill 2011 ,now before the Parliament defines a Lokpal

‘As from the commencement of this Act, there shall be established, for the purpose of making inquiries in respect of complaints made under this Act, **an institution to be called the “Lokpal”**.The objective is stated thus **to provide for the establishment of the institution of Lokpal to inquire into allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto.**

It is gratifying to note in many States in India, Lokyukta Institution is effectively and efficiently operating and the credit goes to all those officers who have honestly and sincerely discharging their functions.With all these developments, Administrative law has grown considerably & is recognised as an independent branch for study and is distinguished from Constitutional Law.

MCQs

1. A.V.Dicey criticized the French legal system of _____
 - a) Drone
 - b) Drone Administration
 - c) Droit Administratif
 - d) None of the above

2. Administrative law is concerned with the operation and control of the powers of administrative authorities with emphasis on functions rather than on structure. This definition was given by
 - a) Dicey
 - b) Jennings
 - c) Wade
 - d) Davis

3. Which one of the following is not basic source of administrative law?
 - a) Delegated legislation
 - b) Ordinance promulgated by Governor
 - c) Custom
 - d) Reports of the committees and Commissions.

4. Constitutional law is concerned with the organization and functions of government at rest, while administrative law, is concerned with that organization and those functions in motion. ” This statement given by
 - a) Austin
 - b) MP Jain
 - c) Salmond
 - d) None of the above.

5. The subject matter of administrative law is “Public Administration”
 - a) Wade
 - b) Phillip
 - c) Jennings
 - d) Dicey