RAMA UNIVERSITY

www.ramauniversity.ac.in

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, tortuous 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 Adminstrative Law, Universal Delhi
3. I. P. Massey: Administrative law

.

LECTURE 27

PRINCIPLES OF NATURAL JUSTICE

The concept of natural justice is the backbone of law and justice. In the quest for justice the principles of natural justice have been utilized since the dawn of civilization. Principles of natural justice trace their ancestry to ancient civilization and centuries long past. Initially natural justice was conceived as a concomitant of universal natural law. Judges have used natural justice as to imply the existence of moral principles of self evident and unarguable truth. To justify the adoption, or continued existence, of a rule of law on the ground of its conformity to natural justice in this sense conceals the extent to which a judge is making a subjective moral judgment and suggests on the contrary, an objective inevitability.

Natural Justice used in this way is another name for natural law although devoid of at least some of the theological and philosophical overtones and implications of that concept. This essential similarity is clearly demonstrated by Lord Esher M.R's definition of natural justice as, " the natural sense of what right and wrong." 1 (Voinet v Barrett, (1885) 55, L.J. Q. B, 39, 41).

Most of the thinkers of fifteenth to eighteenth century considered natural law and justice as consisting of universal rules based on reason and thus were immutable and inviolable. The history of natural law is a tale of the search of mankind for absolute justice and its failure. Again and again in the course of the last 2500 years the idea of natural law has appeared in some form or the other, as an expression for the search for an ideal higher than positive law. (W.G. Friedman, Legal Theory 95. 5th ed. 1967).

Greek thinkers laid the basis for natural law. The Greek philosophers traditionally regarded law as closely to both justice and ethics. Roman society was highly developed commercial society

and Natural law played a creative and constructive role, thereby jus civil, was adopted to meet new demands. Similarly in the middle Ages, the Christian legal philosophy, considered natural law founded on reasons and a reflection of eternal laws. In the seventeenth and eighteenth century, the authority of church was challenged and natural law was based on reason and not divine force. The use of natural law ideas in the development of English law revolves around two problems: the idea of the supremacy of law, and, in particular, the struggle between common law judges and parliament for legislative supremacy on one hand, and the introduction of equitable considerations of "Justice between man and man" on the other. The first ended in a clear victory for parliamentary supremacy and the defeat of higher law ideas; the latter, after a long period of comparative stagnation, is again a factor of considerable influence in the development of the law.

A number of cases are evidenced with the beginning of seventeenth century wherein a statute was declared void and not binding for not being inconformity with the principles of Natural Justice. The concept of natural justice can be traced from Biblical Garden of Eden, as also from Greek, Roman and other ancient cultures like Hindu. The Vedic Indians too were familiar with the natural theory of law. The practice of confining the expression natural justice to the procedural principles (that no one shall be judge in his own case and both sides must heard) is of comparatively recent origin and it was always present in one way or the other form. The expression was used in the past interchangeably with the expressions Natural Law, Natural enquiry, the laws of God, Sampan jus and other similar expressions. (H.H. Marshall, Natural Justice 5 (1959) London) Thus, the widespread recognition, in many civilizations and over centuries the principle of natural justice belong rather to the common consciousness of the mankind than to juridical science.

MCQs

---

1. Consider the following statements: Identify the statements which implies natural justice
    a. The principle of natural justice is followed by the Courts.
    b. Justice delayed is justice denied.
    c. Natural justice is an inalienable right of a citizen
    d. A reasonable opportunity of being heard must be given.
2. Who took interest in the Public Interest Litigation cases?
    a. Bhagawati and Krishna Iyer
    b. Kania and Sastri
    c. Ray and Beg
    d. Shah and Sikri
3. "Administrative law is the law relating to the administration. It determines the organization, powers and duties of the administrative authorities". This definition is provided by –
    a. K. C. Davis
    b. Garner
    c. Ivor Jennings
    d. Wade

4. Dicey developed his theory of 'Rule of law' in his classic work –
    a. The Law and the Constitution
    b. The Spirit of the Laws
    c. Constitutional Law
    d. The Law and the Spirit

5. Which is not a principle of Rule Of Law according to Dicey
    a. Equality before law
    b. Judge made constitution
    c. Separate courts
    d. Supremacy of law