



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 28



CONCEPTUAL FORMULATION

A comprehensive definition of natural justice is yet to be evolved. However, it is possible to enumerate with some certainty the main principles constituting natural justice in modern times. English and Indian courts have frequently resorted to such alternatives to natural justice as “fair play in action”, (Ridge V. Baldwin, (1963) 2 all E.R. 66; Wisemen V. Borneman (1969), 3 all E.R. 215;

Mohinder Singh Gill V. Chief Election Commissioner, A. I. R 1978 S.C. 851.) Common fairness, (R.V. Secretary of State for the Home Department, exp. Hose ball, (1977) 1 W.L.R 766, 784). or the fundamental principles of a fair trial.(Tameshwar V The Queen, (1957) A. C. 476-486; Maneka Gandhi V Union of India A. I. R 1978 S.C 597).

In Spackman’s case, (Spackman V. Plumstead District Board of Works, (1885) 10 App case 229, 240). Earl of Selborne, L.C observed that no doubt in the absence of special provisions as to how the person who is to decide is to proceed, the law will imply no more than that the substantial requirements of justice shall not be violated. He is not the judge in the proper sense of the word but he must give the parties an opportunity of being heard before him and stating their case and their view. There would be no decision within the meaning of the statute, if there were anything of that sort done contrary to essence of justice.

Emphasizing for observance of natural justice again is Lesson’s case, (Lesson V. General Council of Medical Education (1889) US Ch. D 366, 383. Brown C.J using the term ‘natural justice’ stressed that the statute imparts that substantial element of natural justice must be found

to have been present at the enquiry. The accused person must have notice of what he is accused and must be given an opportunity of being heard. The courts took these procedural safeguards in the past among different words. Conveying meaning i.e. the eternal justice or natural justice. The list of the words is long which were as : Substantial justice; The essence of justice; Fundamental justice; Universal justice and Rational justice etc.

So the term natural justice has very impressive ancestry and has been retained all over the world with some modifications. The very basic thing, which emerges from it, is. Fairness in the administration of justice, more than any other legal principle is not susceptible to concise definition. It has a different meaning in different countries. History and tradition shape and distort it. To judge these divergent procedures according to a common standard of fairness is therefore no easy matter. What fair means will surely irritate governments and plague jurists. Fair hearing, some say it constitutes as fifth freedom supplementing freedom of speech and religion, freedom from want and fear. Robert Jackson, J., reminds us that procedural fairness and regularity are of indispensable essence of liberty. The concept of natural justice is not fixed one but has been changing from time, keeping its spirit against tyranny and injustice. Despite the many appellations applied to it and the various meanings attributed to it, through the ages, one thing remains constant. It is by its very nature a barrier against dictatorial power and therefore has been and still is an attribute of an civilized community that aspires to preserve democratic freedom. (Rene Dussault, "Judicial Review of Administrative Action in Quebec," Can Bar Rev. 79 (1967). The concept of natural justice is flexible and has been interpreted in many ways to serve the ends of justice. Thus the doctrine of natural justice is the result of a natural evolution.

MCQs

1. The principle of Natural Justice is –
 - a) Audi alteram partem
 - b) Speaking Orders
 - c) Nemo debet esse iudex in propria causa
 - d) All of the above

2. . Following is the effect of Doctrine of Separation of Power
 - a) Checks and balances between organs
 - b) Judiciary must be independent from other two organs
 - c) Prevent an abuse of enormous powers of the executive
 - d) It is not easy to draw a demarcating line between one power and another with mathematical precision.

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

4. 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

5. . 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