



FACULTY OF JURIDICAL SCIENCES

Course : LLB , 5TH Semester

Subject : Administrative Law

Subject code : LLB 501

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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 14



In State of West Bengal v. Anwar Ali, AIR 1952 SC 75. It was held that in so far as the Act empowered the Government to have cases or class of offences tried by special courts, it violated Article 14 of the Constitution. The court further held the Act invalid as it laid down “no yardstick or measure for the grouping either of persons or of cases or of offences” so as to distinguish them from others outside the purview of the Act. Moreover, the necessity of “speedier trial” was held to be too vague, uncertain and indefinite criterion to form the basis of a valid and reasonable classification. Under Article 19 Article 19 guarantees certain freedoms to the citizens of India, but they are not absolute. Reasonable restrictions can be imposed on these freedoms under the authority of law. They cannot be contended merely on executive action. The reasonableness of the restrictions is open to judicial review. These freedoms can also be afflicted by administrative discretion. Such cases can be examined below. A number of cases have come up involving the question of validity of law conferring discretion on the Executive to restrict the right under Article 19(1)(b) and (e). The State has conferred powers on the Executive to extern a person from a particular area in the interest of peace and safety in a number of statutes.

In Dr. Ram Manohar v. State of Delhi, AIR 1950 SC 211., where the D.M. was empowered under East Punjab Safety Act, 1949, to make an order of externment from an area in case he was satisfied that such an order was necessary to prevent a person from acting in any way prejudicial to public peace and order, the Supreme Court upheld the law conferring such discretion on the execution on the grounds, inter alia, that the law in the instant case was of temporary nature and it gave a right to the externee to receive the grounds of his externment from the Executive.

In Hari v. Deputy Commissioner of Police, AIR 1956 SC 559, the Supreme Court upheld the validity of section 57 of the Bombay Police Act authorizing any of the officers specified therein to expel convicted persons from the area of his jurisdiction if he had reasons to believe that they are likely to commit any offence similar to that of which they were convicted. This provision of law, which apparently appears to be a violation of the residence was upheld by court mainly on the considerations that certain safeguards are available to the expellee, i.e., the right of hearing and the right to file an appeal to the State Government against the order. In a large number of cases, the question as to how much discretion can be conferred on the Executive to control and regulate trade and business has been raised. The general principle laid down in that the power conferred on the Executive should not be arbitrary, and that it should not be left entirely to the discretion of any authority to do anything it likes without any check or control by any higher authority.” “Any law or order which confers arbitrary and uncontrolled power upon the Executive in the matter of the regulating trade or business is normally available in commodities control cannot but be held to be unreasonable.” and no provisions to ensure a proper execution of the power and to operate as a check against injustice resulting from its improper exercise.

The Supreme Court in H.R. Banthi v. Union of India (1979 1 SCC 166) declared a licensing provision invalid as it conferred an uncontrolled and unguided power on the Executive. The Gold (Control) Act, 1968, provided for licensing of dealers in gold ornaments. The Administrator was empowered under the Act to grant or renew licenses having regard to the matters, inter alia, the number of dealers existing in a region, anticipated demand, suitability of the applicant and public interest. The Supreme Court held that all these factors were vague and

unintelligible. The term 'region' was nowhere defined in the Act. The expression 'anticipated demand was vague one. The expression 'suitability of the applicant and 'public interest' did not contain any objective standards or norms. Where the Act provides some general principles to guide the exercise of the discretion and thus saves it from being arbitrary and unbridled, the court will uphold it, but where the Executive has been granted 'unfettered power to interfere with the freedom of property or trade and business, the court will strike down such provision of law. Under Article 31(2): Article 31(2) of the Constitution provided for acquisition of private property by the Government under the authority of law. It laid down two conditions, subject to which the property could be requisitioned