



## **FACULTY OF JURIDICAL SCIENCES**

**Course : LLB , 5<sup>th</sup> 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 23



i) **The Doctrine of ultra vires**---- The chief instrument in the hands of the judiciary to control delegated legislation is the "Doctrine of ultra vires." The doctrine of ultra vires may apply with regard to- i) procedural provision; and

ii) substantive provisions.

i) Procedural defects The Acts of Parliament delegating legislative powers to other bodies or authorities often provide certain procedural requirements to be complied with by such authorities while making rules and regulations, etc. These formalities may consist of consultation with interested bodies, publication of draft rules and regulations, hearing of objections, considerations of representations etc. If these formal requirements are mandatory in nature and are disregarded by the said authorities then the rules etc. so made by these authorities would be invalidated by the Judiciary. In short subordinate legislation in contravention of mandatory procedural requirements would be invalidated by the court as being ultra vires the parent statute. Provision in the parent Statute for consulting the interested parties likely to be affected, may, in such cases, avoid all these inconveniences and the Railway authorities may not enact such rule after they consult these interests. A simple provision regarding consultation thus assumes importance. On the other hand, if the procedural requirements were merely of directory nature, then a disregard thereof would not affect the validity of subordinate legislation. The fact that procedural requirements have far reaching effects, may be made clear by just one example. Suppose the Railway authorities want to relieve pressure of work of unloading goods during daytime at a station amidst a big and brisk business center. The public wants a reduction in the traffic

jams due to heavy traffic because of unloading. The traffic authorities and Railway authorities decide to tackle the problem effectively by making the rule that the unloading be done during late hours of night. The railway authorities make an order to this effect, without consulting interested bodies. Such rule might cause many hardships e.g. – i) The conditions of labour are such that unloading of goods during the night would adversely affect the profit margin as the workers would charge more if they work in night shifts.

ii) It may not be without risk to carry money from one place to another during late hours of night. If safety measures are employed, that in addition to the element of a greater risk, expenses would increase, adversely affecting the margin of profits.

iii) The banking facilities may not be available freely during night.

iv) Additional staff may be necessary in various concerns for night duty.

v) This business are loading and unloading during night may cause inconvenience and disturbance in the locality. Now in face of these difficulties another alternative which appears to be desirable is better supervision of unloading and better regulation of traffic by posting more police officers and stricter enforcement of traffic laws. Provisions in the parent statute for consulting the interested parties likely to be affected may, in such cases, avoid all these inconveniences, and the Railway authorities may not act such a rule after they consult these interests. A simple provision regarding consultation thus assumes importance. The question of the effectiveness of the application of the doctrine of ultra vires, so far as procedure is concerned, would largely depend upon the words

used in the particular statute. If the words are specific and clearly indicate the bodies to be consulted, then it would be possible to show noncompliance. But in case where the minister is vested with the discretion to consult these bodies which he considers to be representative of the interests likely to be affected or where he is to consult such bodies, if any, it is very difficult to prove noncompliance with the procedural requirements.

## MCQs

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1. Basic concept of delegation of power denotes delegation of which of the following power
  - a) Administrative Power
  - b) Rule making power
  - c) Judicial Power
  - d) Voting power
2. In which of the following the supreme court held the constitutional validity of supreme court of India ?
  - a) Namit Sharma v Union of India
  - b) CBSE v Aditya
  - c) ICAI v Shaunak Satya
  - d) None of the above
3. . in which of the following has the supreme court reviewed its own judgment and held that it is not it is not necessary to have judicial officers alone as the members of central or state information commission?
  - a) Namit Sharma v Union of India
  - b) CBSE v Aditya
  - d) None of the above
- c) ICAI v Shaunak Satya
- d) None of the above
4. in which of the following the supreme court held that chief information commissioner is of the opinion that intricate questions of law will have to be decided in a matter coming up before the information commission , he will ensure that the matter is heard by information commissioner who has wide knowledge and experience in the field of law ?
  - a)CBSE v Aditya
  - b) Namit Sharma v Union of India
  - c) ICAI v Shaunak Satya
  - d) None of the above
5. in which of the following cases , Supreme court held that that the information regarding the personal matters pertaining to career or service need not be disclosed under RTI unless there is public interest.
  - a) girish ram Chandra deshpandey v CIC
  - b) CBSE v aditya
  - c) ICAI v Shaunak Satya