



## **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 39



## **CONTRACTUAL LIABILITY OF STATE IN INDIA**

In India the concept of state has been defined under Article 12 of the Constitution of India which says that state includes the Government and the Parliament of India and the Government and legislature of each of the states and all local and other authorities within the territory of India and under the control of Government of India. An individual while exercising his rights is affected by the Acts of the State and its officials in one way or the other. This question of liability of the State is a matter which brings a feeling of majority response whenever the government assumes the role of a welfare state in any democratic country. These Acts are done by the state in exercise of its power as a Sovereign as well as in other capacities in the same manner as an individual does. The state is also subject to law and it cannot violate individual rights. So the main issue that arises here is whether the individual whose rights are affected or who suffers injury by the Acts of the State is entitled to remedy by the state. So there are certain options which are available to an individual to have recourse:-

- i. He may proceed against the officer concerned or
- ii. He may sue the government on whose behalf the officer was acting.

Liability of the State differs in different countries as the different countries have different legal systems. In India the Union or the States are legal persons and they can be held liable for breach of contract. The concept of liability of state for breach of contract is not new in India. This concept was incorporated by the Royal Charter at the time of the East India Company. It was clearly laid down in this concept that merely because East India Company exercises sovereign functions they could not be immune from being sued in its own courts. Even the Government of

India Acts, 1915 and 1935 empowered the Government to enter into contract with private individuals. Government contracts have a significant place in the modern economy and it is becoming important day by day. Today large number of individuals is entrusted by the Government for various purposes in the form of Government contracts which raises a possibility of Government functioning in an arbitrary manner. So the need was felt to regulate and protect the interests of an individual wealth. A contract is an agreement enforceable by law. Government contracts are the contracts to which the Central Government or the State Government is a party. In this paper I will emphasize upon the law relating to Government contracts and the contractual liability of state in India. Government contracts have been accorded constitutional recognition. It provides that the executive power shall extend to the carrying on of trade or The liability of the Government for the breach of contract was recognized even before the commencement of this Constitution.

When the East India Company was established mainly for the purpose of commercial activities in India it was said that the fact that East India Company exercised the sovereign functions it cannot be said that they could be immune from being sued in its own courts to the Company.<sup>1</sup> The liability of the Government had been recognized in the number of statutes also. Thus the provisions were made in the Government of India Acts of 1833, 1858, 1915 and 1935.<sup>2</sup>

**In P. & O. Steam Navigation Co. V Secy. Of State<sup>3</sup>** - it was held by the Supreme Court that no action would lie against the state where the contract was entered into in exercise of sovereign

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<sup>1</sup> Moodalay v E.I Co [1785] 1 469 (Bro. C.C)

<sup>2</sup> C.K Takwani, Lectures on Administrative Law (3rd, Eastern Book Company, Lucknow 2004) 351

<sup>3</sup> [1861] H.C.R 5 (Bom.)

functions of the state. The Calcutta High Court observed and followed the decision of this case in *Nobin v. Secy. Of State*<sup>4</sup> where it was held by the High Court that the Government was not liable for refusing to grant a licence to the plaintiff for the sale of ganja as the sale of ganja was related to sovereign function.

## MCQd

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1. . the supreme court of India recently directed to frame the rules with particular reference section 27 and section 28 of right to information act 2005 within a period of \_\_\_\_\_ months from the date of the judgment .
- a) 3
- b) 6
- c) 9
- d) 10
2. In which of the following cases has the CIC asked the CBI to disclose the information related to complaints against the chief justice of the supreme court and the high courts.
- a) subhash Chandra agarwal v CBI'
- b) CBI v narayana
- c) prashant bhushan v Union of India
- d) None of the above
3. In which of the cases the Supreme Court held that the details disclosed by the details disclosed by a person in his income tax returns are "personal information" which stands exempted from disclosure under clause (j) of section 8 (1) of the right to information act unless involves a larger public interest.
- a) girish ram Chandra deshpandey v CIC
- b) CBSE v aditya
- c) ICAI v Shaunak Satya
- d) None of the above
4. which of the following speaks about right to freedom ?
- a) article 19 of Indian constituion
- b) article 19 of UDHR
- c) both A and B
- d ) none of the above
5. right to information is
- a) an unrestricted right
- b) subject to statutory restrictions
- c) subject to constitutional restrictions
- d) Both A and B