



## **FACULTY OF JURIDICAL SCIENCES**

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

**Subject : Administrative Law**

**Subject code : LLB501**

**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 18



The power to make such a modification no doubt, implies certain amount of discretion but it is a power to be exercised in aid of the legislative policy of the Act and cannot

i) travel beyond it, or

ii) run counter to it, or

iii) certainly change the essential features, the identity, structure or the policy of the Act. Under the constitution of India, articles 245 and 246 provide that the legislative powers shall be discharged by the Parliament and State legislature.

The delegation of legislative power was conceived to be inevitable and therefore it was not prohibited in the constitution. Further, Articles 13(3)(a) of the Constitution of India lays down that law includes any ordinances, order bylaw, rule regulation, notification, etc. Which if found in violation of fundamental rights would be void. Besides, there are number of judicial pronouncements by the courts where they have justified delegated legislation.

For e.g. **In re Delhi Laws Act case, AIR 1961 Supreme Court 332; Vasantlal Magan Bhaiv. State of Bombay, air 1961 SC 4; S. Avtar Singh v. State of Jammu and Kashmir, AIR 1977 J&K 4.** While commenting on indispensability of delegated legislation Justice Krishna Iyer has rightly observed in the case of **Arvinder Singh v. State of Punjab, AIR A1979 SC 321, that** the complexities of modern administration are so bafflingly intricate and bristle with details, urgencies, difficulties and need for flexibility that our massive legislature may not get off to a start if they must directly and comprehensively handle legislative business in their plentitude, proliferation and particularization Delegation of some part of legislative power becomes a compulsive necessity for viability.

A provision in a statute which gives an express power to the Executive to amend or repeal any existing law is described in England as Henry viii Clause because the King came to exercise power to repeal Parliamentary laws. The said clause has fallen into disuse in England, but in India some traces of it are found here and there, for example, Article 372 of the Constitution authorizes the president of India to adopt pro Constitutional laws, and if necessary, to make such adaptations and modifications, (whether by way of repeal or amendment) so as to bring them in accord with the provisions of the Constitution. The State Reorganization Act, 1956 and some other Acts similar thereto also contain such a provision. So long as the modification of a provision of statute by the Executive is innocuous and immaterial and does not effect any essential change in the matter.

## MCQs

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1. . Which of the following is not true regarding the payment of the emoluments of the President?
  - a) They can be reduced during a Financial Emergency.
  - b) They are shown separately in the budget.
  - c) They are charged on the Contingency Fund of India.
  - d) They do not require any parliament sanction.
  
2. The total number of members nominated by the President to the Lok Sabha and the Rajya Sabha is
  - a) 16
  - b) 18
  - c) 14
  - d) 12
  
3. Which one of the following does not constitute the electoral college for electing the President of India?
  - a) Elected members of Lok Sabha
  - b) Elected members of the Legislative Assembly of each state.
  - c) Elected members of the Legislative Council
  - d) Elected members of Rajya Sabha
  
4. . Which of the following appointments is not made by the President of India?
  - a) Chief of the Army
  - b) Speaker of the Lok Sabha
  - c) Chief Justice of India
  - d) Chief of the Air Force
  
5. Who appoints the Prime Minister of India?
  - a) Lok Sabha
  - b) President
  - c) Parliament
  - d) Citizens of India

