



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 19



Types of delegation of legislative power in India There are various types of delegation of legislative power.

1. Skeleton delegation In this type of delegation of legislative power, the enabling statutes set out broad principles and empowers the executive authority to make rules for carrying out the purposes of the Act. A typical example of this kind is the Mines and Minerals (Regulation and Development) Act, 1948.

2. Machinery type This is the most common type of delegation of legislative power, in which the Act is supplemented by machinery provisions, that is, the power is conferred on the concerned department of the Government to prescribe –

i) The kind of forms

ii) The method of publication

iii) The manner of making returns, and

v) Such other administrative details In the case of this normal type of delegated legislation, the limits of the delegated power are clearly defined in the enabling statute and they do not include such exceptional powers as the power to legislate on matters of principle or to impose taxation or to amend an act of legislature.

The exceptional type covers cases where –

i) the powers mentioned above are given , or

ii) the power given is so vast that its limits are almost impossible of definition, or

iii) while limits are imposed, the control of the courts is ousted. Such type of delegation is commonly known as the Henry VIII Clause. An outstanding example of this kind is Section 7 of the Delhi Laws Act of 1912 by which the Provincial Government was authorized to extend, with

restrictions and modifications as it thought fit any enactment in force in any part of India to the Province of Delhi.

This is the most extreme type of delegation, which was impugned in the Supreme Court in the **Delhi Laws Act case. A.I.R. 1951 S.C.332**. It was held that the delegation of this type was invalid if the administrative authorities materially interfered with the policy of the Act, by the powers of amendment or restriction but the delegation was valid if it did not effect any essential change in the body or the policy of the Act. That takes us to a term "bye-law" whether it can be declared ultra vires ? if so when ? Generally under local laws and regulations the term bye-law is used such as

- i) public bodies of municipal kind
- ii) public bodies concerned with government, or
- iii) corporations, or
- iv) societies formed for commercial or other purposes. The bodies are empowered under the Act to frame bye-laws and regulations for carrying on their administration.

There are five main grounds on which any bye-law may be struck down as ultra vires. They are :

- a) That is not made and published in the manner specified by the Act, which authorises the making thereof;
- b) That is repugnant of the laws of the land;
- c) That is repugnant to the Act under which it is framed;
- d) That it is uncertain ; and

e) That it is unreasonable. Modes of control over delegated legislation The practice of conferring legislative powers upon administrative authorities though beneficial and necessary is also dangerous because of the possibility of abuse of powers and other attendant evils. There is consensus of opinion that proper precautions must be taken for ensuring proper exercise of such powers. Wider discretion is most likely to result in arbitrariness

MCQs

1. What are the types of delegated legislation
 - a). Skeleton delegation
 - b) Machinery type
 - c) both a and b
 - d) none of the above

2. Grounds on which any bye-law may be struck down as ultra vires
 - a) That is not made and published in the manner specified by the Act, which authorises the making thereof;
 - b)) That is repugnant of the laws of the land
 - c) That is repugnant to the Act under which it is framed;
 - d) all of the above

3. local laws and regulations the term bye-law is used such as
 - a) public bodies of municipal kind
 - b) public bodies concerned with government, or
 - c) corporations, or societies formed for commercial or other purposes
 - d) all of the above

4. The Union Council of Ministers consists of
 - a) Cabinet Ministers, Minister of State and Deputy Ministers
 - b) Cabinet Ministers and Chief Ministers of the States
 - c) Prime Minister
 - d) Cabinet Ministers

5. . Who administers the oath of office to the President of India before he enters upon the office?
 - a) Chief Justice
 - b) Speaker
 - c) Vice President
 - d) Prime Minister