LL.B. IV Term

Administrative Law

Cases Selected and Edited by

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Paper : LB - 402 - Administrative Law

Prescribed Books:

Additional Readings:
3. Report of the Committee on Ministers’ Powers (Donoughmore Committee), (Cmd. 4060) (1932)

Topic 1 – Nature and Scope of Administrative Law
1.1 Definition and Scope of Administrative Law
1.2 Rule of Law
1.3 Separation of Powers


Cases
4. ADM Jabalpur v. Shivkant Shukla, AIR 1976 SC 1207
5. Indira Gandhi (Smt.) v Raj Narain AIR 1975 SC 2299

Recommended Readings:

Topic 2 – Delegated Legislation
2.1 Meaning
2.2 Reasons for growth
2.3 Conditional Legislation
2.4 Permissible limits of delegation of legislative power
2.5 Judicial control
2.6 Legislative control – laying requirement
2.7 Procedural Control - Pre-and post-publication, consultation with affected interests; The General Clauses Act, 1897, sections 20-24

**Topic 3 – Administrative Discretion**

3.1 Meaning of discretion; Judicial Review of conferment and exercise of discretionary power, abuse of discretionary power;

3.2 Nature Scope and extent of Judicial Review

3.3 Grounds of Judicial Review:

3.3.1 Abuse / Misuse of discretion - *mala fides* / ill-will, motive, Unreasonableness / Arbitrariness, Improper Purpose, Ignoring relevant considerations, Relying on irrelevant considerations;

3.3.2 Non application of mind – acting mechanically, acting under dictation, imposing fetters by self imposed rules or policy decisions;

3.3.3 Violation of the Principles of Natural Justice

3.4 Principles of proportionality

**Topic 4 – Principles of Natural Justice**

4.1 Administrative and quasi-judicial functions

4.2 Meaning and need for Administrative Adjudication, *lis inter partes*, concept of fairness

4.3 *Nemo judex in causa sua* (rule against bias)

4.4 *Audi alteram partem* (rule of fair hearing)

4.4.1 Notice

4.4.2 Right to cross-examination

4.4.3 Right to legal representation

4.5 Reasoned Decision (Speaking Order)

4.6 Effect of non-observation of the Principles of Natural Justice


**Topic 5 – Judicial Review** (5 Classes)

5.1 Review and Appeal

5.2 Power of Judicial Review of the Supreme Court and the High Courts – Articles 32, 136, 226 and 227 of the Constitution of India

5.3 Writs – *Certiorari*, *Mandamus*, *Prohibition*, *Habeas Corpus*, *Quo Warranto*

5.3.1 *Certiorari* – (to decide the legality of an order/decision already passed/given) and for that purpose to produce all records of the case before the writ court - Grounds on which issued

5.3.2 Jurisdictional Errors – Excess of jurisdiction, Exercising jurisdiction not vested; Non-exercise of jurisdiction. The court exercising power does not act as an appellate court and therefore neither the merits of the case nor re-appraisal of evidence is allowed; Errors of law alone can be subject of judicial review but not the errors of fact howsoever grave they
may be; Review possible if a decision/order was based on ‘no evidence’ or on irrelevant considerations;

5.3.3 Non-compliance with the prescribed procedure or the rules of natural justice;

5.3.4 Errors of law apparent on the face of record can be corrected – that may occur when the conclusion of law recorded by the lower court/tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it or even in disregard of it or is expressly founded on reasons which are wrong in law.

5.4 Mandamus – To command the performance of a statutory or public duty; not issued for exercise of discretionary power or against the legislature/legislators; can be issued both against the executive authorities as well as private individuals/persons.

5.5 Prohibition – To decide the legality of pending proceedings

5.6 Habeas Corpus – To decide the legality of an arrest/detention. It is necessary to produce the arrested/detained person in the court and if dead, the dead body must be produced in the court.

5.7 Quo warranto – To decide the legal authority of a person to hold a public office.

5.8 Ouster clauses (constitutional and statutory exclusion)

5.9 Curative Petition


42. **Common Cause v. Union of India**, AIR 2003 SC 4493.

**Topic 6 – Right to Information**

6.1 Transparency and accountability of the administration; Right to Information under the Constitution of India;

6.2 The Right to Information Act, 2005 - Object of the legislation – effective and responsive Government/public authorities; Scope of the right to information – Obligation of public authorities to supply information; Grounds of refusal to disclose information

44. **Secretary General, Supreme Court of India v. Subhash Chandra Agarwal**, 166 (2010) DLT 305 (FB). 283

**Topic 7 – Tribunals**

7.1. Concept; Justice by Tribunals – Advantages: Openness, Fairness, Impartiality, Absence of Technicalities of Evidence and Procedure, Cheapness;
7.2. Constitution of India, Articles 323A and 323B;
7.3. Overview of Tribunals in India with particular reference to Administrative Tribunals established under the Administrative Tribunals Act, 1985;

46. *L. Chandra Kumar v. Union of India and others*, AIR 1997 SC 1125
47. *Union of India v. R. Gandhi, President, Madras Bar Association 2010 (5) SCALE 514*

**Recommended Reading**

272 Law Commission of India Report on Assessment of Statutory Framework Of Tribunals in India (October 2017)

**Topic 8 – Commissions of Inquiry & Central Vigilance Commission**

8.1. The Commissions of Inquiry Act, 1952 - Object and Scope of the legislation – ‘to inquire into any definite matter of public importance;  
8.2. Power of Central/State Government to appoint a Commission of Inquiry – discretionary and mandatory nature of power;  
8.3. Powers and Procedure of the Commission of Inquiry; Compliance with the principles of natural justice;  
8.4. Submission of report and follow up action – effectiveness.  

**Topic 9 – Regulatory Agencies**

Need of Regulatory Bodies; Composition, powers, functions and procedure; of the Regulatory Bodies including the securities and exchange board of India; The Securities and Exchange Board of India Act, 1992; Telecom Regulatory Authority of India Act, 1997; The Insurance Regulatory and Development Authority Act, 1999; Electricity Regulatory Commission under the Electricity Act, 2003 (Electricity Regulatory Commission); Competition commission of India under the Competition Act, 2002.

**Topic 10- Redressal Of Complaints against the administration : The Institution of Ombudsman**

**IMPORTANT NOTE:**
1. The students are advised to read the books prescribed above along with legislations and cases.  
2. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.  
3. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.