



LL.B. IV Term

Administrative Law

Cases Selected and Edited by

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UNIVERSITY OF DELHI, DELHI-110 007
January, 2018**

LL.B. IV Term
Paper : LB - 402 - Administrative Law

Prescribed Books:

1. M.P. Jain and S.N. Jain's *Principles of Administrative Law Revised by Amita Dhanda* (7th ed., 2017)
2. I.P. Massey, *Administrative Law* (7th ed. 2008)
3. S.P. Sathe, *Administrative Law* reprint (7th ed., 2013)
4. H.W.R. Wade and C.F. Forsyth, *Administrative Law* (10th ed., 2009)
5. S.N. Jain, *Administrative Tribunals in India* (1977).

Additional Readings:

1. Justice Bhagwati Prasad Banerjee, *Judicial Control of Administrative Action* (3rd ed., 2016)
2. Harry Woolf, Jeffery Jowell and Andrew Le Sueur, *De Smith's Judicial Review* (6th ed., 2007)
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

- H.M. Seervai “The Supreme Court of India and the Shadow of Dicey”, 01
The Position of the Judiciary under the Constitutional of India, 83-96 (1970)

Cases

1. *Rai Sahib Ram Jawaya Kapur v. State of Punjab*, AIR 1955 SC 549. 08
2. *Asif Hameed v. State of J. & K.*, AIR 1989 SC 1899. 17
3. *State of M.P. v Bharat Singh*, AIR 1967 SC 1170. 22
4. *ADM Jabalpur v. Shivkant Shukla*, AIR 1976 SC 1207
5. *Indira Gandhi (Smt.) v Raj Narain* AIR 1975 SC 2299

Recommended Readings:

1. Justice H.R. Khanna, *Rule of Law* (1977) 4 SCC (Jour) 7.
2. Lord Bingham, *The Rule of Law*, Vol. 66, No. 1 *The Cambridge Law Journal*, (March 2007) 67-85.

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

6. <i>In re Delhi Laws Act</i> , AIR 1951 SC 332.	27
7. <i>Lachmi Narain v. Union of India</i> , AIR 1976 SC 714.	41
8. <i>Darshan Lal Mehra v. Union of India</i> , AIR 1992 SC 1848.	54
9. <i>Govind Lal v. A.P.M. Committee</i> , AIR 1976 SC 263.	57
10. <i>Sonik Industries, Rajkot v. Municipal Corpn. of the City of Rajkot</i> (1986) 2 SCC 608 : AIR 1986 SC 1518.	64
11. <i>Atlas Cycle Industries Ltd. v. State of Haryana</i> , AIR 1979 SC 1149.	67
12. <i>Rajnarain Singh v. Chairman, Patna Administration Committee</i> , AIR 1954 SC 519.	

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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

13. <i>Dwarka Prasad Laxmi Narain v. State of U.P.</i> , (1954) SCR 803: AIR 1954 SC 224.	77
14. <i>A.N. Parasuraman v. State of Tamil Nadu</i> , AIR 1990 SC 40: (1989) 4 SCC 683.	85
15. <i>J. R. Raghupathy v. State of A. P.</i> , AIR 1988 SC 1681.	89
16. <i>Coimbatore District Central Cooperative Bank v. Coimbatore District Central Co-op. Bank Employees Assn.</i> , (2007) 4 SCC 669.	107
17. <i>Om Kumar & Others v. Union of India</i> , AIR 2000 SC 3689	117
18. <i>R. v. Secretary of State for the Home Department, Ex Parte Daly</i> , 2001] UKHL 26	131
19. <i>G. Sadananadan v. State of Kerala</i> , AIR 1966 SC 1925: (1966) 3 SCR 590.	138
20. <i>Express Newspapers (Pvt.) Ltd. v. Union of India</i> , AIR 1986 SC 872.	
21. <i>State of Bombay v. K.P. Krishnan</i> , (1961) 1 SCR 227: AIR 1960 SC 1223.	144
22. <i>Ranjit Singh v. Union of India</i> , AIR 1981 SC 461.	154
23. <i>Nandlal Khodidas Barot v. Bar Council of Gujarat and others</i> AIR 1981 SC 477.	156
24. <i>Shri Rama Sugar Industries Ltd. v. State of Andhra Pradesh</i> , (1974) 1 SCC 534: AIR 1974 SC 1745.	158
25. <i>Associated Provincial Picture House Ltd. v. Wednesbury Corporation</i> (1947) 2 All ER 680.	
26. <i>DM Aravali Golf Club v. Chander Hass</i> , 2007 (14) SCALE 1	

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
 - 4.7 Requirement of supplying Enquiry Report – Effect of non-supply of such Report.
27. *A.K. Kraipak v. Union of India*, AIR 1970 SC 150. 167
28. *Ashok Kumar Yadav v. State of Haryana*, AIR 1987 SC 454. 173
29. *G.N. Nayak v. Goa University*, AIR 2002 SC 790. 189
30. *Amar Nath Chowdhury v. Braithwaite & Co. Ltd.*, (2002) 2 SCC 290: 173 AIR 2002 SC 678. 195
31. *Hira Nath Mishra v. Principal, Rajendra Medical College*, (1973) 1 SCC 805: AIR 1973 SC 1260. 197
32. *J.K. Aggarwal v. Haryana Seeds Development Corpn. Ltd.*, (1991) 2 SCC 283: AIR 1991 SC 1221. 201
33. *Bharat Petroleum Corpn. Ltd. v. Maharashtra General Kamgar Union*, (1999) 1 SCC 626. 205
34. *Maneka Gandhi v. Union of India* (1978) 1 SCC 248. 211
35. *H.L. Trehan v. Union of India*, AIR 1989 SC 568. 219
36. *K I Shepherd v. Union of India*, AIR 1988 SC 686.
37. *S.N. Mukherjee v. Union of India*, AIR 1990 SC 1984. 223
38. *Managing Director, ECIL, Hyderabad v. B. Karunakar*, (1993) 4 SCC 727. 241

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

39. *Syed Yakoob v. K.S. Radha Krishanan* (1964) 5 SCR 64: AIR 1964 SC 477. 248

40. *Surya Dev Rai v. Ram Chander Rai*, AIR 2003 SC 3044: (2003) 6 SCC 675. 257

41. *Anadi Mukta Sadguru S.M.V.S.S.J.M.S. Trust v. V.R. Rudani*, (1989) 2 SCC 691 : AIR 1989 SC 1607. 270

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

43. *Rupa Ashok Hurra v. Ashok Hurra*, AIR 2002 SC 1771. 276

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

45. *Disclosure of Accounts and Funding of Political Parties*, CIC Order Dated 3rd June 2013.

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 314
47. *Union of India v. R. Gandhi, President, Madras Bar Association 2010 (5) SCALE 514* 324

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.
- 8.5. The Central Vigilance Commission Act, 2003 – Constitution, Powers and Functions.

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.