Course Wise Content Details for LL.M. Programme:
Master of Laws
Semester - II

**Course Name:** Administrative Actions and Judicial Review  
**Course Code:** 2YLM - 202

**Marks:** 100

**Course Objectives:**
1. To help students develop a critical legal understanding of meaning, need and scope of administrative actions and to make them aware about legal theories and provisions used to review the administrative actions and also about the methods and procedures to ensure fairness, efficiency, transparency and accountability in public administration.
2. To help students inculcate an insightful legal approach to appraise the limits and efficacies of judicial review of administrative actions in a given situation.
3. To make the students aware about the niceties of jurisdictions of High Courts and Supreme Court to review or appeal against the impugned administrative action.

**Learning Outcomes:**
On successful completion of this Course, the students will be able to:
1. Apply their knowledge and critical legal understanding to seek solutions to pressing problems in the area of public administration
2. Conduct effective legal research in the subject using fundamental tools of legal research.
3. Write research papers/notes and case comments and work in research houses.
4. Practice in the matters related to exercise of administrative discretion and adjudication or in related matters in law courts/tribunals.
5. Become law teachers or effectively work as administrators.

**Contents:**

**UNIT I : STATE AND ADMINISTRATIVE ACTIONS**

Concept of Social Welfare State; Classification of Administrative Actions - Rule-making action or quasi-legislative action, Decision-making action or quasi-judicial action, Rule-application action or purely administrative action; Ministerial actions; Administrative Discretion

**UNIT II : ADMINISTRATIVE DISCRETION AND JUDICIAL REVIEW**

Meaning and need of discretion; Legislative conferment of discretion on administrative authorities; limitations on conferment of discretion arising from constitutional provisions with special reference to Articles 14, 19 and 21

Doctrine of judicial review - Origin and importance, Judicial review as a part of ‘basic structure of the Constitution, Exclusion of power of judicial review or ‘ouster clause’, Nature, scope and extent of power of judicial review, Judicial Self-restraints and Judicial Activism

**UNIT III : GROUNDS OF JUDICIAL REVIEW OF EXERCISE OF DISCRETION**

Doctrine of Ultra Vires
Abuse/Misuse of discretion - *mala fide*/ bad faith, mixed motives/colourable exercise of power, improper purpose, leaving out relevant considerations, taking into account irrelevant considerations, arbitrary exercise of discretion, unreasonable exercise of discretion or violation of *Wednesbury* principle

Non application of mind - surrender, abdication, acting mechanically, acting under dictation, imposing fetters by self-imposed rules or policy decisions

Violation of principles of natural justice

Principle of proportionality

Doctrine of legitimate expectation

Estoppel against the Government (promissory estoppel)

**UNIT IV: JUDICIAL REVIEW AND POLICY DECISIONS**

Limited power of judicial review of the courts over policy matters with special reference to policy of reservation, disinvestment, privatization etc.

**UNIT V: ADMINISTRATIVE ADJUDICATION**

Meaning and need of administrative adjudication; *Lis inter partes*, concept of fairness; Difference between administrative, judicial and quasi-judicial actions

An overview of administrative tribunals established under Article 323 A and 323B of the Constitution of India

**UNIT VI: PRINCIPLES OF NATURAL JUSTICE AND JUDICIAL REVIEW**

Nature, scope and importance of the principles of natural justice

*Nemo judex in causa sua* or rule against Bias - Components and Tests, Kinds of bias, Judicial Obstinacy, Exceptions to rule against bias

*Audi Alterum Partem* or rule of fair hearing – Notice, Right to cross examination, Right to counsel, Pre-decisional and Post decisional hearing; Right to inquiry report

*Reasoned decision* or speaking order – Rationale, Reasons by original and appellate authorities

Principles of Natural Justice: Exceptions and Failure to Comply - Exceptions will cover exclusion by statutory provisions, in public interest, emergency, confidentiality, impracticability, etc.

Consequences of Non-Compliance with Principles of Natural Justice – Action taken whether Void or Voidable, Test of prejudice or useless formality, Test of substantial compliance

**UNIT VII: WRIT JURISDICTION AND APPELLANT JURISDICTION OF THE SUPREME COURT AND HIGH COURTS: SCOPE AND EXTENT**

Difference between judicial review, revision and appeal; Power of Judicial Review of the Supreme Court and the High Courts-- Articles 32 and 226 of the Constitution of India; Writs – *Certiorari, Mandamus, Prohibition, Habeas Corpus, Quo Warranto*; Ouster clauses (constitutional and statutory exclusion); Curative Petition

Supervisory and Appellate Jurisdiction of the Supreme Court and High Courts– Articles 227 and 136 of the Constitution of India

**Suggested Readings:**


**Reading Material:**

1. 108th Report of the Law Commission of India on Promise to Estoppel (Excerpts)

**Required Readings:**

**Books**


**Articles**

- D. Oliver, “Is the ultra vires rule the basis of judicial review?” *Public Law* 543 (1987)
- R. Williams, “When is an error not an error? Reform of jurisdictional review of error of law and fact”, *Public Law* 793 (2007)
List of Cases:

1. Hirday Narain v. ITO, AIR 1971 SC 33
7. Dr. Bonham’s case, 8 Co. Rep. 114a,118a (1610)
8. Marbury v. Madison, 1 Cranch 137 (1803)
9. Anisiminic Ltd. v. Foreign Compensation Commission, (1969) 1 All ER 208
15. Indira Nehru Gandhi v. Raj Narain, AIR 1975 SC 2299
17. T.N. Rangarajan v. Govt. of Tamil Nadu, AIR 2003 SC 3032
25. BALCO Employee’s Union v. Union of India, (2002) 2 SCC 333
26. Centre for Public Interest Litigation and Ors v. Union of India and Ors. (2G case) (2012) 3 SCC 1
27. Natural Resources, In Re Special Ref. No. 1 of 2012 decided on 27 September 2012
32. State of Punjab v. V.R. Khanna, AIR 2001 SC 343
33. Express Newspaper (Pvt) Ltd. v. Union of India, AIR 1986 SC 872
34. State of Bombay v. K.P. Krishnan, AIR 1960 SC 1223
35. ACC Store v. R.K. Mehra, AIR 1993 P&H 342
36. Ranjit Singh v. Union of India, AIR 1981 SC 461
38. Commr. of Police v. Girdhandas Bhanji, AIR 1952 SC 16
42. Om Kumar and Ors. v. Union of India, AIR 2000 SC 3689
44. Chairman, All India Railway Recruitment Board and Anr. v. Shyam Kumar and Ors., (2010) 6 SCC 614
45. R. v. Secy of State for Home Dept, Ex Parte Daly, (2001) UKHL 26
48. Justice K.S. Puttaswamy (Retd.) v. Union of India decided on 26 September 2018
49. Union of India v. Indo- Afgan Agencies Ltd., AIR 1968 SC 718
52. Union of India v. Godfrey Philips India Ltd., AIR 1986 SC 806
55. Jeejebhoy v. Asst Collector, Thane, AIR 1965 SC 1096
57. Metropolitan Properties Co. v. Lannon, (1968) WLR 815
58. Gullapali Nageswara Rao v. AP State Road Transport Committee, AIR 1959 SC 308
59. A.K. Kraipak v. Union of India, AIR 1950 SC 150
60. Ashok Kumar Yadav v. State of Haryana, AIR 1987 SC 454
61. R.L. Sharma v. Managing Committee, Dr. Hari Ram (Co edu) H.S. School, AIR 1993 SC 2155
63. G.N. Nayak v. Goa University, AIR 2002 SC 790
66. Charan Lal Sahu v. Union of India, AIR 1990 SC 1480
67. Hira Nath Misra v. Rajendra Medical College, AIR 1973 SC 1260
68. A.K. Roy v. Union of India, AIR 1982 SC 710
71. Maneka Gandhi v. Union of India, (1978) 1 SCC 248
73. H.L. Trehan v. Union of India, AIR 1989 SC 568
74. K.I. Shepherd v. Union of India, AIR 1988 SC 686
75. S.N. Mukherjee v. Union of India, AIR 1990 SC 1984
78. Justice K.S. Puttaswamy (Retd.) v. Union of India, 26.09.2018
79. Indian Young Lawyers Association v. State of Kerala, 28.09.2018
80. Navtej Singh Johar v. Union of India, 06.09.2018
81. Joseph Shrine v. Union of India, 27.09.2018
82. Manohar Lal Sharma v. Narendra Damodardas Modi, December 2018

IMPORTANT NOTE:

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.

2. Students are required to study/refer to the legislations as amended from time to time, latest judicial decisions and consult the latest editions of books.