

LL.B. IV Term

Paper : LB - 402 - Administrative Law

Prescribed Books:

1. G.P. Singh and Alok Aradhe (Rev.), **M.P. Jain and S.N. Jain's *Principles of Administrative Law*** (5th ed., 2007)
2. I.P. Massey, ***Administrative Law*** (7th ed., 2008)
3. S.P. Sathe, ***Administrative Law*** (7th ed., 2004)
4. S.N. Jain, ***Administrative Tribunals in India*** (1977);
5. S.P. Sathe, ***The Tribunal System in India*** (1996).

Additional Readings:

1. H.W.R. Wade and C.F. Forsyth, ***Administrative Law*** (8th ed., 2000)
2. Bhagwati Prosad Banerjee and Bhasker Banerjee, ***Judicial Control of Administrative Action*** (2001)
3. H.M. Seervai, ***The Position of the Judiciary under the Constitution of India*** (1970)
4. Harry Woolf, Jeffery Jowell and Andrew Le Sueur, ***De Smith's Judicial Review*** (6th ed., 2007)
5. ***Report of the Committee on Ministers' Powers*** (Donoughmore Committee), (Cmd. 4060) (1932)

Topic 1 – Nature and Scope of Administrative Law (5 Classes)

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| 1.1 | Definition and Scope of Administrative Law | |
| 1.2 | Rule of Law - Dicey's Rule of Law | 01 |
| 1.3 | Theory of Separation of Powers | |

Cases

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| 1. | <i>Rai Sahib Ram Jawaya Kapur v. State of Punjab</i> , AIR 1955 SC 549. | 08 |
| 2. | <i>Asif Hameed v. State of J. & K.</i> , AIR 1989 SC 1899. | 17 |
| 3. | <i>State of M.P. v Bharat Singh</i> , AIR 1967 SC 1170. | 21 |

Topic 2 – Delegated Legislation (7 Classes)

- 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 of affected interests; The General Clauses Act, 1897, sections 20-24	
4. <i>In re Delhi Laws Act</i> , AIR 1951 SC 332.	26
5. <i>Lachmi Narain v. Union of India</i> , AIR 1976 SC 714.	40
6. <i>Darshan Lal Mehra v. Union of India</i> , AIR 1992 SC 1848.	53
7. <i>Govind Lal v. A.P.M. Committee</i> , AIR 1976 SC 263.	56
8. <i>Sonik Industries, Rajkot v. Municipal Corpn. of the City of Rajkot</i> (1986) 2 SCC 608 : AIR 1986 SC 1518.	63
9. <i>Atlas Cycle Industries Ltd. v. State of Haryana</i> , AIR 1979 SC 1149.	66
10. <i>Rajnarin Singh v. Chairman, Patna Administration Committee</i> , AIR 1954 SC 519.	

Topic 3 – Administrative Discretion (6 Classes)

3.1 Meaning of discretion; Judicial Review of conferment and exercise of discretionary power, abuse of discretionary power;	
3.2 Nature and Scope of Judicial Review	
3.3 Grounds of Judicial Review:	
3.3.1 Abuse / Misuse of discretion - <i>mala fides</i> / 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	
11. <i>Dwarka Prasad Laxmi Narain v. State of U.P.</i> , (1954) SCR 803: AIR 1954 SC 224.	76
12. <i>A.N. Parasuraman v. State of Tamil Nadu</i> , AIR 1990 SC 40: (1989) 4 SCC 683.	84
13. <i>J. R. Raghupathy v. State of A. P.</i> , AIR 1988 SC 1681.	88
14. <i>Coimbatore District Central Cooperative Bank v. Coimbatore District Central Co-op. Bank Employees Assn.</i> , (2007) 4 SCC 669.	107
15. <i>Om Kumar & Others v. Union of India</i> , AIR 2000 SC 3689	117
16. <i>R. v. Secretary of State for the Home Department, Ex Parte Daly</i> , 2001] UKHL 26	132
17. <i>G. Sadananadan v. State of Kerala</i> , AIR 1966 SC 1925: (1966) 3 SCR 590.	140
18. <i>Express Newspapers (Pvt.) Ltd. v. Union of India</i> , AIR 1986 SC 872.	

19.	<i>State of Bombay v. K.P. Krishnan</i> , (1961) 1 SCR 227: AIR 1960 SC 1223.	146
20.	<i>Ranjit Singh v. Union of India</i> , AIR 1981 SC 461.	157
21.	<i>Nandlal Khodidas Barot v. Bar Council of Gujarat and others</i> AIR 1981 SC 477.	160
22.	<i>Shri Rama Sugar Industries Ltd. v. State of Andhra Pradesh</i> , (1974) 1 SCC 534: AIR 1974 SC 1745.	162

Topic 4 – Principles of Natural Justice (7 Classes)

4.1	Administrative and quasi-judicial functions	
4.2	Meaning and need for Administrative Adjudication, <i>lis inter partes</i> , concept of fairness	
4.3	<i>Nemo judex in causa sua</i> (rule against bias)	
4.4	<i>Audi alteram partem</i> (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.	
23.	<i>A.K. Kraipak v. Union of India</i> , AIR 1970 SC 150.	171
24.	<i>Ashok Kumar Yadav v. State of Haryana</i> , AIR 1987 SC 454.	177
25.	<i>G.N. Nayak v. Goa University</i> , AIR 2002 SC 790.	193
26.	<i>Amar Nath Chowdhuary v. Braithwaite & Co. Ltd.</i> , (2002) 2 SCC 290: AIR 2002 SC 678.	199
27.	<i>Hira Nath Mishra v. Principal, Rajendra Medical College</i> , (1973) 1 SCC 805: AIR 1973 SC 1260.	201
28.	<i>J.K. Aggarwal v. Haryana Seeds Development Corpn. Ltd.</i> , (1991) 2 SCC 283: AIR 1991 SC 1221.	205
29.	<i>Bharat Petroleum Corpn. Ltd. v. Maharashtra General Kamgar Union</i> , (1999) 1 SCC 626.	209
30.	<i>Maneka Gandhi v. Union of India</i> (1978) 1 SCC 248.	215
31.	<i>H.L. Trehan v. Union of India</i> , AIR 1989 SC 568.	223
32.	<i>K I Shepherd v. Union of India</i> , AIR 1988 SC 686.	
33.	<i>S.N. Mukherjee v. Union of India</i> , AIR 1990 SC 1984.	227
34.	<i>Managing Director, ECIL, Hyderabad v. B. Karunakar</i> , (1993) 4 SCC 727.	245

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
35. *Syed Yakoob v. K.S. Radha Krishanan* (1964) 5 SCR 64: AIR 1964 SC 477. 252
36. *Surya Dev Rai v. Ram Chander Rai*, AIR 2003 SC 3044: (2003) 6 SCC 675. 261

37. *Anadi Mukta Sadguru S.M.V.S.S.J.M.S. Trust v. V.R. Rudani*, (1989) 2 SCC 691 : AIR 1989 SC 1607. 274
38. *Common Cause v. Union of India*, AIR 2003 SC 4493 . 279
39. *Rupa Ashok Hurra v. Ashok Hurra*, AIR 2002 SC 1771. 280

Topic 6 – Commissions of Inquiry & Central Vigilance Commission (1 Class)

- 6.1. The Commissions of Inquiry Act, 1952 - Object and Scope of the legislation – ‘to inquire into any definite matter of public importance’;
- 6.2. Power of Central/State Government to appoint a Commission of Inquiry – discretionary and mandatory nature of power;
- 6.3. Powers and Procedure of the Commission of Inquiry; Compliance with the principles of natural justice;
- 6.4. Submission of report and follow up action – effectiveness.
- 6.5. The Central Vigilance Commission Act, 2003 – Constitution, Powers and Functions.

Topic 7 – Right to Information (2 Classes)

- 7.1. Transparency and accountability of the administration; Right to Information under the Constitution of India;
 - 7.2. 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.
40. *Secretary General, Supreme Court of India v. Subhash Chandra Agarwal*, 166 (2010) DLT 305 (FB). 288

Topic 8 – Tribunals & Regulatory Bodies (2 Classes)

- 8.1 Concept; Justice by Tribunals – Advantages: Openness, Fairness, Impartiality, Absence of Technicalities of Evidence and Procedure, Cheapness;
- 8.2 Constitution of India, Articles 323A and 323B;
- 8.3 Overview of Tribunals in India with particular reference to Administrative Tribunals established under the Administrative Tribunals Act, 1985;
- 8.4 Need of Regulatory Bodies; Composition, powers, functions and procedure;
- 8.5 The Securities and Exchange Board of India Act, 1992,

- 8.6 Telecom Regulatory Authority of India Act, 1997,
 - 8.7 The Insurance Regulatory and Development Authority Act, 1999,
 - 8.8 The Electricity Act, 2003 (Electricity Regulatory Commission),
 - 8.9 The Competition Act, 2002.
41. *L. Chandra Kumar v. Union of India and others*, AIR 1997 SC 1125

IMPORTANT NOTE:

1. The students are advised to read only 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.
4. The Question Paper shall include one compulsory question consisting of five parts out of which four parts will be required to be attempted. The question papers set for the academic years 2008 to 2010 are printed below for guidance.

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LL.B IV Term Examinations, April- May, 2008

Note: Answer *five* question including Question No. 1 which is compulsory.
All questions carry *equal* marks.

1. Attempt briefly any *four* of the following:
 - (a) Write a brief note on the doctrine of 'Separation of Powers'.
 - (b) Distinguish between 'Judicial Review' and 'Appeal'.
 - (c) Explain the requirement of 'laying subject to negative resolution'?
 - (d) What do you understand by 'Curative Petition'?
 - (e) Write a brief note on the object and scope of the Commissions of Inquiry Act 1952.
2. (a) Examine the reasons for the growth of delegated legislation of India.
(b) What are the permissible limits of delegated legislation? Discuss in the light of decided cases.
3. "The dividing line between an administrative power and a quasi-judicial power is quite thin and is being gradually obliterated." Elucidate, giving appropriate examples and decided cases.
4. (a) X, a Doctor filed a complaint to the Bar Council against Y, an advocate practising in the High Court of Delhi. The Bar Council appointed a Disciplinary Tribunal consisting of Chairman and two other members to conduct the enquiry. The Chairman