

## **CORE COURSE 204 ADMINISTRATIVE LAW**

### **OBJECTIVES OF THE COURSE:**

The modern state governs in the traditional sense, that is maintains law and order, adjudicates upon disputes and regulates economic and social life of individuals and group in the state. At the same time it is also the provider of essential service. In the event of need occasioned by unforeseen hazards of life in a complex society, it engages itself in giving relief and helps the citizenry towards self-reliance. The assumption of unprecedented responsibilities by the state has necessitated devolution on authority of numerous state functionaries. The number of functionaries in carrying out these tasks has ever been on the increase due to proliferation of human needs in an age of science and technology . The aggregate of such functionaries is an essential component of modern administration.

A formidable body of law has come into existence for the purpose of exercising control over administration. For long administrative lawyers have primarily been concerned with such matters as excess or abuse of power, mal administration and abuse of discretion. However, in recent years there has been a shift in emphasis from finding what the administration may not do to what it must do. The courts in Indian, no doubt, strike down administrative acts which are ultra vires or in violation of procedural norms however, not much has so far been achieved in compelling the administration to perform statutory duties, though a beginning has been made in respect of matters relating to fundamental human liberties, Most of the statutory duties imposed on administrative agencies or authorities remain largely in the realm of discretion.

A course on administrative law must, therefore, lay emphasis on understanding the structure and modus operandi of administration. It must take note of developmental perspectives and attainment of social welfare objectives through bureaucratic process. It should go into matter, which facilitate or hinder the attainment of these objectives.

Though in the matter of protection of rights of individual against administration the role of courts can not be minimized, it is no less important to know the advantages of informal methods of settlement. Many new methods of grievance redressal have been devised which are not only efficacious but also inexpensive and less time consuming. Remedies available for administrative deviance need a critical study and evaluation in the context of realities.

### **SYLLABUS :**

#### **1. Introduction and Basic Constitutional Principles :**

1.1 Administrative Law : Definition, Nature, Scope Reasons for its growth

1.2 Development of Administrative Law, its relation with Constitutional law

1.3 Basic Constitutional Principles :

1.3.1 Rule of Law

1.3.2 Doctrine of Separation of Powers

1.3.3 Principles of Natural Justice, relevant statutory provisions, Natural Justice Principle as accepted in India, Judicial approach and important Cases

1.4 Classification of Administrative actions, Administrative functions, Judicial Functions and Quasi-Judicial functions

## **2. Delegated Legislation and Quasi-Judicial Functions:**

2.1 Delegated Legislation: Definition, Reasons of its growth

2.2 Delegated Legislation in USA and in India

2.3 Functions which can be and cannot be delegated, Conditional Legislation, Sub-delegation, General Principles for delegated legislations

2.4 Controls and Safeguards over Delegated Legislation: Purpose

2.5 Judicial, Legislative and other controls over Delegated Legislation

2.6 Quasi-judicial functions: Definition, distinction from Administrative functions

## **3. Judicial Review of Administrative Discretion and Remedies:**

3.1 Administrative Discretion, Judicial Review Definition

3.2 Judicial Review of Administrative Discretion:

3.2.1 Failure to exercise discretion

3.2.2 Excess or abuse of discretion

3.3 Judicial and other remedies:

3.3.1 Writ remedies, Kinds of writs, jurisdiction, powers, against whom writ to be issued, relevant constitutional provisions

3.3.2 Statutory remedies: Civil Suits, Appeals to Courts, Appeal to tribunals, Appeal before the Supreme Court, SLP, Public Interest Litigation

3.3.3 Other remedies like Council de Etat, Ombudsman, Lokpal & Lokayukt, self- help etc.

3.4 Administrative Tribunals : Definition, Origin, Nature, Scope, reasons for its growth,

3.5 Characteristics of Administrative Tribunals, Distinction from courts, Kinds of Administrative Tribunals, relevant Constitutional provisions and amendments-effects thereof, Important judicial pronouncements : Case of Sampat Kumar, L. Chandrakumar

#### **4. Miscellaneous:**

4.1 Liability of the Government

4.1.1 Contractual Liability

4.1.2 Tortious liability, Doctrine of Estoppel, Crown Privilege

4.2 Public Corporations: Definition, characteristics, classification and working

4.3 Rights and liabilities of Public Corporations, Control over Public Corporations

4.4 Vigilance Commission,

4.5 Doctrine of Legitimate Expectation, Doctrine of unjust enrichment

#### **Suggested Reading:**

1. C. K. Thakker, Administrative Law
2. C. K. Takwani, Lectures on Administrative Law, Eastern Book Co.
3. C. K. Allen, Law & Orders D.D. Basu, Comparative Administrative law
4. M.A. Fazal, Judicial Control of Administrative Action in India , Pakistan and Bangladesh, Butterworths - India.
5. Franks, Reports of the Committee on Administrative Tribunals and Inquiries HMSO, 1959
6. Peter Cane An Introduction to Administrative Law, Oxford.
7. Wade, Administrative law (Seventh Edition, Indian Print, Universal, Delhi.
8. J.C. Garner, Administrated Law, Butterworths (ed. B. L. Jones )
9. M. P. Jain, Cases and Materials on Indian Administrative Law, Vol . I and II Supplement
10. S. P. Sathe, Administrative Law
11. B.Schwartz, An Introduction to American Administrative Law
12. Indian Law Institute, Cases and Materials on Administrative Law in India, Vo. I Delhi.