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Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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Evolution And Growth Of Administration Law

Authored by- Ronanki Parimala

Abstract

Administrative law is the most visible and important achievement of the contemporary state. The increase that occurred in the twentieth century might be regarded a major transformation. The role and responsibilities of the state have changed dramatically. There is an increase in the number of government functions. The state, which is now operating as a progressive democratic state, must ensure that the citizens' basic requirements are met by the state. It is responsible for ensuring social peace and security, controlling overproduction, manufacturing, and distributing necessary goods, ensuring fair pay for equal effort, and working to ameliorate shanty towns, residents' health, and literacy of its people throughout the duration of their stay within the state.

I. Introduction To Administrative Law

Administrative law governs the techniques that organisations employ in arbitrating, enforcing, and implementing regulations, as well as providing a framework for evaluating organisational judgments, norms, policies, acts, and other aspects of their functioning. In a nutshell, administrative regulation is the regulatory framework that governs public administration. It governs how and why public administrative corporations perform what they do, as well as their power to do so. Simply put, it is one of the most important aspects of modern governance. Administrative factors acting all of us in a variety of ways in our daily lives. Administrative regulation is often used on the belief that one measurement fits all. While there may be exclusions, it generally pertains to administrative groups inside a company, as opposed to being tailored to each agency's goal on an individual basis. It is a jail framework within which government is established and evolved.¹ Sir Ivor Jennings wrote that, “*Administrative law is the law relating to the administration, it determines the organization, powers and duties of administrative authorities.*” They were certain criticisms regarding this definition given by Sir Ivor Jennings those are basically it doesn't include the remedies available to an aggrieved party when his rights are adversely effected by the administration. It is considered to be a very wide definition. It ignores the distinction between constitutional law and administration law. It lays the entire emphasis on the organisation, power, and duties to the exclusion of the manners of their exercise. K.C Davis defined administrative law as: “*Administrative law is the law concerning the powers and procedures of administrative agencies, especially the law governing judicial review of administrative actions.*”² Further explanation according to him administration agency is a governmental authority, other than a court and other than a legislative body, which effects the rights of the private parties through either adjudication or rule-making. Dicey define administration law as “*administrative law as a denoting that the portion of a nations legal system which determines:*

The legal status and liabilities of All state officials.

the civil rights and liabilities of private individuals in their buildings with officials as representatives of the state.

The procedure by which those rights and liabilities are enforced.”³

There are various drawbacks for the given definition, those are.

it doesn't not cover several administrative law aspects, for example, it includes the study of several administrative authorities, such as public corporations. That are not included in the phrase state officials.

It excludes procedures of administrative authorities or their various powers and functions.

Wade and Phillips defines administrative law as: “*Administrative law is a branch of public law which is concerned with the composition, powers, duties, rights and liabilities of various organs of the government which are engaged in administration.*”⁴ Jain and Jain define the administrative law

¹S.R.Myneni, administrative law, (1st Ed. 2014)

²S.R.Myneni, administrative law, (1st Ed. 2014)

Dr. J.J.R.Upadhyaya, administration law,(2021Ed. Jan 2021)

³S.R.Myneni, administrative law, (1st Ed. 2014)

Dr. J.J.R.Upadhyaya, administration law,(2021Ed. Jan 2021)

⁴C.K.Takwani, lectures on administration law,(7th Ed.2021)

as: *“the administrative law deals with the structure, power and function of the organ of administration, the limits of their powers, the methods and procedures. Followed by them in exercising their powers and functions. The method by which their powers are controlled, including the legal remedies available to a person against them when he's rights are influenced by their operations.”*⁵ I.P Massey defined administrative law as: *“administrative law is a. Branch of public law, which deals with the organization and powers of administrative and quasi administrative agencies and prescribe the principles and the rules by which an official action is reached and reviewed. In relation to individual liberty and freedom.”*⁶ Griffith and Street defined administration law as: *“According to Griffith and Street (Principles of Administrative Law,1963), the major purpose of administrative law is the functioning and supervision of administrative authority, and it must answer the underlying three issues:*

What are the boundaries of their abilities?

What kind of authority would the administration wield?

What are the mechanisms for keeping the administration inside such bounds?

The definition of Griffith and Street's Has Been Improved,

According to the Indian Law Institute, the two following factors must be included in order to have a thorough understanding of modern administrative law:

What processes do the governing bodies follow?

What are the solutions accessible to someone who has been impacted by administration?”

Garner's definition on administrative law: as per Garner, is *“those norms which are acknowledged by the court as law, and which pertain to and control the administration of government.”*⁷

“ Power tends to corrupt and absolute power corrupt absolutely.”- Lord Acton

Explanation- he says that if we give power to someone the power then there might be chances of misuse of power. And if we give that power absolutely then there might be restriction without any restriction and condition then the power is definitely misused.⁸

“Concentration of powers is tyranny.”- James Madison

Explanation- if we give the accumulation of all the powers of, legislative, executive, and judiciary in the same hands whether of one, a few or many and whether hereditary, self-appointed, or elective may justly be pronounced the very definition of tyranny. (If we give all the accumulation of all the powers to a person then there absolute power is given then as they get all the powers then those powers might be misused.)⁹

⁵Jacqueline Martin and Chris Turner, the facts on your finger tips constitutional and administration law(2nd Ed. 2006)

⁶ C.K.Takwani, lectures on administration law,(7th Ed.2021)

⁷Study Mumbai, administrative-law, <https://www.studymumbai.com/administrative-law/>

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II. Nature And Scope Of Administration Law

2.1. Nature Of Administration Law

Administrative law is a nascent field of law that concerns with organizational agencies' powers, how those powers are applied, and the measures available to aggrieved parties when such authority are exploited by administrative agencies.

The administrative system has become an essential scourge in all developed society, and it must be acknowledged as such. Especially in welfare states, when the government prepares and administers numerous initiatives for the advancement of society. The execution and implementation of these initiatives may have a negative impact on individuals' rights. The real issue is how to balance social welfare with particular individuals' rights. The basic goal of studying administrative law is to figure out what is going on is to unravel the way in which a technique to keep these administrative authority inside their bounds so that arbitrary authorities do not become arbitrary powers.¹⁰ (VI,VII)

2.2. Scope Of Administration Law

The science of law is divided into various disciplines. Administrative law is a relatively new discipline of the study of law in discourse analysis, with few administrative agencies. These organs of the administrative machinery have been assigned specific roles. Administrative law governs the organisation, operations, and powers of administrative agencies. It also established the technique and processes to be followed by them during the solutions accessible to the individual whose liberties and other entitlements are affected by their activities. The definition of administrative law is explained in the few sentences above. We can see the precise scope of this particular new branch of law, and the scope of administrative law may be told as follows. (VI,VII)

This new field of law also investigates the techniques and processes of these administrative entities. It describes the organisation, powers, and functions of each of these administrative organs. It also makes all recent solutions accessible to the individual whose rights are being violated by the activity of these bodies throughout administration.

Why and how should administrative organs be governed is also viewed by administrative law.¹¹

III. Evolution Of Administration Law

The state has its own policy. It follows its own policy or have its own character. The change that has occurred in that character there the administration law is being evolved. Before the state was considered as a police state. From there a transition has occurred from there it became a social welfare state. When it became social welfare state there administration law has been evolved. So, if

¹⁰Study Mumbai, administrative-law, <https://www.studymumbai.com/administrative-law/>

¹¹Study Mumbai, administrative-law, <https://www.studymumbai.com/administrative-law/>

we see police state it has very less functions like defence of the country, maintenance of law and order, administration of justice and collection of taxes, maintenance of peace. So, it had very limited type of functions. Along with this there use to be a policy that use to be existed that is policy of laissez-faire. Now in this policy what use to happened was that the government was told that they won't be involved in any manner for a business, market, contract, finance, etc. by this means the individuals will get complete contractual freedom and they will decide the matters by themselves. So, the policy they are following in this they have they're own consequences within it. Like the differences between rich and poor is increased and alongside the unemployment also increased. So even this policy wasn't good. So, the state thought to change their character or their philosophy a little. So, from these both policies they have jumped to social welfare state. So, when they have been upgraded to social welfare state here the states functions have been increased by a profusion. Because they have involved in every aspect of an individual. Like from birth of a person till their death the state is involved in this complete journey. The function of the state that is administration of justice, protection of law and order apart from this the state became the protector of our rights, provider of our rights, it also started getting involved in the business, started enterprises, and also started getting involved in the economic matters. And apart these state also started protection and promotion of our economic and social welfare, started thinking about equal distribution of well being etc. all these things came under the hands of the state. At this movement the administration law is evolved. ¹²(VI,VII)

IV. Growth Of Administration Law

4.1. Indian Scenario

If we look upon the old ancient historic times during the reign of the Maurya's and therefore the Gupta dynasties of Ancient India had centralised administrative system. Following this, came the Mughals who had somewhat similar administrative system.

The kings within the ancient period of history were mostly concerned majorly about three things-

- Protecting the state from external aggression
- Maintaining law and order and peace
- Collecting taxes.

The kings use to do these limited works. From there Britishers came to India. the main motive of the Britishers when they came to India was mainly doing trade and earn profit. Slowly they understood that they can even rule our country. Then they started ruling our country and then they understood while ruling that they need to pass many laws. And through this law they can regulate many things. So, because of this many acts were passed by the British government on regulating public safety, health, transport etc. they also made many statutes relating to regulation of drugs act, the stage carriage act, northern canal and drainage act, the defence India act etc. when they passed all these and other different acts the system of administration has also been increased.

¹²Shambhavi Goswami, Historical Development of Administrative Law in India, law student at GGSIP.Blog(APR 13, 2021, 15:12 IST), <https://timesofindia.indiatimes.com/readersblog/shambhavi/historical-development-of-administrative-law-in-india-31054/>

Alongside during the period of 1860's they started giving the power to different authorities. So that they can regulate the things like the stage carriage act under this act the commissioner of police and precedency were given power to give license if they find a certain carriage is fit. Alongside if they find that certain carriage isn't fit then they can cancel it, or they can reject the request. So, if we see here, they not only given authority to make decision but also to do their work and manage their affairs. Like During the Second war, the chief powers tremendously increased Defence of India Act, 1939 and therefore the rules made thereunder conferred ample powers on the property of a private with little or no judicial control over them, additionally to the present, the govt issued many orders and ordinances, covering several matters by way of administrative instructions.¹³ (I)

Even yet, in interpreting each of these Acts and Constitutional requirements, the judiciary began to examine the aims and aspirations of social welfare. Thus, in *Vellunkunnel vs. Reserve Bank of India* AIR) 1962 SC137),¹⁴ the Supreme Court held that under the Banking Companies Act, 1949, the Reserve Bank was the ultimate judge to make a decision if the indiscretions of a Banking company were being performed in a manner contrary to depositors', interest, and the court had no choice but to pass a command of winding up as prayed for by the Reserve Bank. Again, in the case of *Andhra Pradesh vs. C. V. Rao*, (1975) 2 SCC 557¹⁵, the Supreme Court concluded that the authority to award a writ of certiorari under Article 226 is supervisory in character. It is not an appeal court, and if there is proof or a transcript on which the tribunal based its decision, the conclusions cannot be contested on the grounds that the material is weak or inadequate. The tribunal has sole authority over the sufficiency or adequacy of proof. (I)

Similar was taken in the cases of *K. L. Shinde Vs State of Mysore*, (AIR 1976 SC 1080) In *Shrivastava Vs Suresh Singh* (AIR 1976 SC 1904) and in the case of *State of Gujrat Vs. M. I. Haider Bux* (AIR 1977 SC 594).

Thus, on the one hand, the activities and powers of the government and administrative authorities have expanded, yet on the other side, there is a great imperative for the rule of law to be enforced and judicial oversight of these powers to ensure that residents are gratis to enjoy the freedom constitutionally guaranteed. At the similar time, they have access to exceptional measures under Articles 32, 226, and 227 of the Indian Constitution. The Concept of judicial review is also acknowledged in our constitution, and the sequence carried by the administrative agencies can be rescinded and set it apart if they are malafied or ultravires the Act or even the constitutional provisions. And if the norms, ordinances, or directives issued by these agencies exceed their authority, they might be ruled ultravires, illegal, unlawful, or invalid.¹⁶ (I, V, VI)

¹³Shambhavi Goswami, Historical Development of Administrative Law in India, law student at GGSIP. Blog(APR 13, 2021, 15:12 IST), <https://timesofindia.indiatimes.com/readersblog/shambhavi/historical-development-of-administrative-law-in-india-31054/>

¹⁴*Vellunkunnel vs. Reserve Bank of India* AIR, 1962 SC137)

¹⁵ *State of Andhra Pradesh vs. C. V. Rao*, (1975) 2 SCC 557

¹⁶ Gaurav Akrani, Growth and Development of Administrative Law In India, Blog.(10/24/2010), <https://kalyan-city.blogspot.com/2010/10/growth-and-development-of.html>
Study Mumbai, administrative-law, <https://www.studymumbai.com/administrative-law/>

4.2. Three Organs Of The Government

State works on three main organs that is legislative, executive and judiciary. So basically, legislative(enacts law), make the laws and judiciary(interpret the laws) interpret the laws and sees whether the laws which are made whether they are constitutional or not. Here the work of the executive wing(implement the laws passed by the legislative) is that whatever laws which are made by the legislature it implements those laws. It implements in such a way by making different policies, by making schemes, by taking decision on how those to be implemented all these work is done by the executive. If we take this in relation with the administration law then we can see why the administrative law is made, for what wing it is made, with what it is dealing with administrative authorities.

4.3. Administrative Authorities



So here the administrative wing is doing legislative function, judicial function and also doing its own functions. So, by this we can connect that if one wing is given all the powers at a time then there might be arbitrary exercise of power, this is what mentioned by Lord Acton and James Madison in quotes above. So basically, to save from this administration law is formed. In other words, to keep the governmental powers within the limit of law and to protect private rights and individual interests is why administration law is formed.

V. Reasons For The Growth Of Administrative Law

5.1. The Change In The Philosophy Of State: The change in the role played by the state from police state to social welfare state.

5.2. Urbanization: Emergence of factory system led to the migration of people to urban areas. This led to the increase in the need for proper facilities like housing, roads, drainage system. Fulfilling the needs of all. By passing legislations. By the legislature overburdened the wing ultimately resulted in the delegation of powers to the administrative wing and growth of administrative law.
(vi)

5.3. Emergency Situation: Passing of laws by the legislature is a long process, so it is not expected from a legislature to pass a law and meet an emergency situation.

5.4. Inadequacy Of Legislative Process: it has no time to deal with all the details, example, drug and cosmetic act and drug and cosmetic rules.

5.5. Inadequacy Of Judicial System: it is low costly for Formalistic. No speedy disposal. Example, Industrial Tribunal, labour cost.

5.6. Experiment: The administrative process is flexible.

5.7. Technicalities: Administrative Organs have Technical Experts.

At the moment, all of the technical professionals are working with the administrative organs. If the legal work of administration is attempted to be transferred to the current judiciary and law, it will be hampered owing to a lack of technical understanding.

Consequently, in order to employ and harness the skill of the technical specialists who are now with the administrative institutions, it is quite prudent to develop a new and co-ordinating department of law, namely administrative law. (vi)

Finally, we may argue that they serve as an impartial arbiter, necessitating the creation of a distinct Administrative Law.¹⁷

5.8. Preventive measures: administrative authority can take preventative measures.

5.9. Effective Enforcement Of Preventive Measures: administrative authority can take steps to enforce preventive measures, example, revocation, suspension of license.^{18(x)}



¹⁷ Study Mumbai, administrative-law, <https://www.studymumbai.com/administrative-law/>

¹⁸ Study Mumbai, administrative-law, <https://www.studymumbai.com/administrative-law/>

Vi. Conclusion

To summarise, administrative law is the principal field of public law with its unique character. Administrative law changes over period and will continue to develop in response to the evolving requirements of civilization. Administrative law is intended to control the activities and authorities of the Executive and to safeguard ordinary citizens from abuse of authority by the Executive or any of its legal instruments. The primary goal of administrative law is to prevent the Executive from abusing its discretionary powers.

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