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ANALYTICAL INTERPRETATION OF QUASI LEGISLATIVE & QUASI JUDICIAL BODIES: A NEW SCOPE OF MODERN RULE OF LAW

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ABSTRACT

The Indian Government is having three main organs to perform their respective legislative, executive and judicial operations in form of Legislature, Executive and Judiciary but these three main pillars of the Indian Government sometimes unable to dispense with true and fair decisions or there having the lots of complexities in order to decide or make law by the legislature and the judiciary, so in that case the parent authority needs a technical department to prevent these absurdities and thus, they authorized the technical departments in dual form i.e. Quasi-Legislative Body being the first and Quasi-Judicial Body being the subsequent administrative bodies who are undoubtedly being regulated and supervised by their respective parent authority in form of Legislature and Judicial Body of India. They being formulated just in order to provide efficacies and effectiveness in the due process and due deliverance of fair law. In cases when it becomes impossible for the legislature to make laws, then in such cases the sister authority in form of Quasi Legislative Bodies have the power conferred by their parent authority to make law and to frame some by-laws, rules, notifications, etc. Under this Research Article the author intends to highlights and mentions about the powers and control of both the administrative bodies in forms of Quasi-Legislative and Quasi-Judicial Bodies, their meaning and core features and along with that the different case laws pertaining to both these administrative bodies.

KEYWORDS: (*Quasi-Legislative Body, Quasi-Judicial Body, Efficacy, Indian Government, Courts.*)

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INTRODUCTION AS IN TERMS OF NEED OF THESE BODIES NAMELY QUASI-LEGISLATIVE AND QUASI-JUDICIAL BODIES

In short if we conclude the prime rationale behind the formulation of the Quasi-Legislative and the Quasi-Judicial Body is nothing but an administrative structure to provide less complexities in law and to reframe the law or to interpret the laws in its best and efficient manner as what exactly the Tribunals in form of Quasi-Judicial Body does Per se. As Indian Government is having contained the three main bodies namely the Legislature, Executive and the Judiciary and they being the independent body Ipso Facto, but the truth is being the opposite as on one side the Legislature is the law making authority in our country but if we see in practicality this particular body has only conferred the powers and control to the Quasi-Legislative Body to make laws in cases of emergencies, or when the house is being dissolved, or in other grave situations and similarly in case of Judiciary as established under our Indian Subcontinent, we have High Courts in each State and the Apex Court in our country i.e. the Hon'ble Supreme Court of India which administers the justice but in some cases the Court's powers are being thoroughly exercised by the Tribunals who have the similar powers of the Courts to administer the justice to the needy though the parent authority under this case even goes to the hand of Judiciary itself but we may see the dilution of powers being conferred to these administrative bodies just in order to make law non-robust and flexible held in the case namely **Jayantilal Amritlal Shodhan v. F.N. Rana**³.

The most important legal point which these abovementioned bodies have to keep in their mind is that they have to act within the ambit of Natural Justice as they have to be highly proportionate within the compliance of the common law of the country and at any cost, they shall not be supposed to elope the legal compliances of the Natural Justice and have to be Intra-Vires⁴.

THE CONCEPT OF QUASI-JUDICIAL BODY ALONG WITH THEIR RESPECTIVE POWERS AND CONTROL: A NEED TOWARDS MODERN RULE OF LAW

The term quasi connotes 'not exactly' as by the name it suggests its prime and authentic meaning i.e., it is the not being the absolute Judicial Body but in real it has been construed as a Quasi-

³AIR 1964 SC 648, 655.

⁴Ibid.

Judicial Body who have got the compliance, authority⁵, control and power being conferred by the parent authority i.e., the Judiciary of Indian Subcontinent held in the case namely **Province of Bombay v. Khushaldas S. Advani**⁶.

In short, the Quasi-Judicial Body acts in between the judicial function and an administrative function. Basically, what does this Quasi-Judicial Body do or performs is as same as what the Judiciary does i.e., an effective administration of justice to the needy ones in our Indian Society but the thinner line difference is being in its nature of operations i.e. they are within the active supervision of the Indian Judiciary and Judiciary maintains the checks and balances over them so that any discrepancies shall not be take place on the unfair and unjust conduct of the Quasi-Judicial Body at large.

The Quasi-Judicial Body exercises the following powers and functions under the following heads, and they are as mentioned below:

➤ Under the heads as **Presentation of the Case:**

The Quasi-Judicial Body as though being authorised by the administrative departments to exercise the judicial functions as like the Indian Judiciary does or performs but there is still the difference between these two bodies i.e. the Judiciary and the Quasi-Judicial Body, like in former case the presentation of the case i.e. in normal courts are mandatory for the parties but in the latter case i.e. under the Quasi-Judicial Body the oral presentation of the case is immaterial so it becomes clear that the ambit of power of Judiciary if we compare it with the Quasi-Judicial Body is quite low.

- With the active administration of justice, the Quasi-Judicial Body along with its effective facilitation of justice have a positive framework and parallel consonance with the Tribunals in India whose main task is to ensure the effective administration of justice to the needy.
- The Quasi-Judicial Body makes out the disciplinary proceedings against the students at large if they commit any sort of unreasonable acts which are against the ethical code of conduct or against the common law of the country.
- The Quasi-Judicial Body reserves the Right to Dismiss an employee of any organisation if they grossly commit any misconduct on their respective part.

⁵Report of the Committee on Minister's Powers (1932) CMD 4060.

⁶AIR 1950 SC 222

- The Quasi-Judicial Body is having the sole right as construed by the administration to disqualify the Members of the Parliament or the Members of the Legislative Assembly.
- This body also ensures the true determination of the Citizenship of any person living within the Territory of India.

THE QUASI-JUDICIAL BODY: CORE FEATURES AS TO ENSURE THE EFFECTIVE MODERN RULE OF LAW

In the case namely **Union of India v. Indo-Afghan Agencies**⁷, the Court held that even the administrative structure in form of Quasi-Judicial Body can have the power to enforce its respective orders if once given in some Tribunals, and thereby the parties have to follow that order, and if a person by having a non-compliance to that order violates the right of the aggrieved and that too in a substantial loss or substantial violations of an aggrieved party then the Tribunal or the Quasi-Judicial Body can take a strict action against that offender. The following below are the characteristics or the core effective features of the Quasi-Judicial Body, and they are as follows:

- The Quasi-Judicial Body is formed by the administrative actions and thereby the Quasi-Judicial Body exercises its operations in form of having the active ambit of Tribunals in order to administer the justice to the common masses of the society.
- The Administration Tribunal in consonance with its Quasi-Judicial aspect acts in a judicial manner but has to be within the ambit of Natural Justice i.e. precisely has to abide by the principles of Natural Justice.
- An Administrative Tribunal by having the effect of the Quasi-Judicial operations activates its work and nature of operations in almost every State as it is being created by the statute and has vested its entire operations in the Judicial power of the State or in other words, we can connote that the administration has conveyed the judicial powers to the Quasi-Judicial Body for the overall administration of justice and in this way, it performs the Quasi-Judicial functions of the Indian Judiciary.

⁷AIR 1968 SC 718.

MEANING AND LEGAL CONCEPT OF QUASI- LEGISLATIVE BODY

The literal depiction or the meaning of the Quasi-Legislative Body is the law-making authority when being delegated to the administrative authorities or to the executives to make laws or conferred the right to make law as being further supervised by the parent authority i.e. the Legislature Ipso Facto. In other words, this Quasi-Legislative Body is also known as by the name of Subordinate Legislation. Basically, the powers and rights which are being conferred by the Legislature to the Administrative Executives in form of Quasi-Legislative Body is not being absolute in nature but it is subject to certain limitations in relation to Principle of Natural Justice and Doctrine of Intra Vires.

In the case namely **Chief Settlement Commercial v. Om Prakash**⁸, the Hon'ble Supreme Court interpreted and stated that the parent authority shall always play an absolute role in regulating and making of law i.e., the Legislature and irrespective of the legislative powers being delegated to the executives in form of Quasi-Legislative Body it must act within the ambit of certain limits and legal compliances being set for them. The Quasi-Legislative Body exercises certain powers and functions, as they are mentioned below:

- The Quasi-Legislative Body has been the indispensable need in today's modern rule of law to provide the due process of law and to ensure fair justice to the needy ones in our society.
- Sometimes the making of law is not that easy to perform by the legislatures because it needs the high time technicality for the making or framing of laws, thereby the Quasi-Legislative Body ensures the Techno-Efficacy laws being successfully implemented in the society and moreover as per the need of the society the law has to be change since from the early times which is effectively and efficiently being performed by the Quasi-Legislative Authorities and in this way it exercises the wide power in compare to the Legislature.
- This body exercises the due power to facilitate the flexibilities in law as for the Legislature it is a herculean-task to frame laws or to make laws in times of any contingencies or other unforeseen situations.

⁸AIR 1969 SC 33.

- This body is having the power conferred by the Legislature that in times during any emergencies being occurred in our country, this body can frame and make laws or in other words we can say with the effective and expedient aid of the Delegated Legislation the making of law becomes an easy task.

ROLE OF INDIAN JUDICIARY IN AN EFFECTIVE FACILITATION OF DUE PROCESS OF LAW OR ENSURING MODERN RULE OF LAW

In the case namely **Avinder Singh v. State of Punjab**⁹, the Court held that without having the presence and due facilitation of efficacies in law performed by the Quasi-Legislative Body, the legislative intent shall be futile and incomplete.

In the case namely **Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi**¹⁰, the Court has interpreted the indispensable need of the Delegated Legislation in form of the operations being performed under the head of Quasi-Legislative Body as the true aspect and genuine structure of making law and to ensure flexibility and non-rigidity in law.

In the case namely **Sita Ram Bishambhar Dayal v. State of U.P.**¹¹, the Court held that without having the effective emancipation and establishment of the Quasi-Legislative Body the modern rule of law shall not be accomplished on the part of the Indian Government, thereby it is being reasonably suggested to conferred more and more powers and controls to the administrative authorities or an executives with a reasonable check and balance of the parent authority i.e. the Legislature.

In the case namely **Ajay Kumar Banerjee v. Union of India**¹², the Court held that for achieving the heights of the Modern Welfare State, there shall be the high need for the legislature to conferred more and more powers or in short the practice of empowering the executive to make subordinate legislation within the prescribed sphere or limits set by the Legislature.

⁹(1979) I SCC 137.

¹⁰(1975) I SCC 421.

¹¹(1972) 4 SCC 485.

¹²(1984) 3 SCC 127.

In the case namely **Durga Shankar Mehta v. Raghuraj Singh**¹³, the Hon'ble Supreme Court has interpreted the meaning of Tribunal in its wide form as they said that Tribunal as under Article 136 of the Indian Constitution the meaning and interpretation of the Tribunal is not as same as the meaning of the Court but the Tribunal is vested with some judicial control and it also contains the adjudicating bodies or the authorities who can adjudicate the matters same as how the Court in our Indian Judicial System actually does, but the Tribunals are the part of the Quasi-Judicial Body, so there shall be the check and balances be kept over the activities of the Tribunal by the Pure Judicial Authority in form of their Parent-Authority.

CONCLUSION

Delegated or Subordinate Legislation implies effective facilitation of Rule of Law made under the experts of an individual of the Act of Parliament. Despite the way that law-making is inside the limit of the law-making body i.e. the Legislature, it may, by a goal, delegate its ability to various bodies or individuals. The goals which delegates such force is known as the Enabling Act. By Enabling Act, the committee sets out the wide standards and an expeditious facilitation of modern Rule of Law. Every mandate of law is being formulated for some specific purpose which solves out the core issues of the Government, similarly the rationale behind the effective formation of the Delegated Legislation and the Quasi-Judicial Authority/ Body is to ensure and provide the greatest efficacies in law and also to make law flexible and non-rigid. Undoubtedly, these abovementioned bodies are very much efficient as they solve the complexities of the existing laws which have been formulated by making out the feasible and genuine amendments to it in order to make our country a Sound Welfare State. The concept of Delegated Legislation has enriched under so many sub-heads which indirectly facilitates in making up of positive frameworks for the welfare structure of our country. The most important core feature of this principle known as Delegated Legislation has its practical reflection in ensuring the socio-economic needs of the country which becomes possible as when the legislature delegates its law-making power to the administration or an executive.

As far the Subordinate Legislations are being concerned, they are easy to amend, modify, and much importantly they are up to the mark as per the needs of the civilians living in our Indian Society on a high mass.

¹³AIR 1954 SC 520.

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