

ADMINISTRATIVE LAW

JIGL (SYLLABUS 2017)

1. What are the principal sources of Administrative Law in India? Explain in brief. **DEC 2020** **(4 MARKS)**

Ans:

- (i) Administrative law is a branch of public law which is responsible for establishing a framework as well as a structure to regulate administrative as well as quasi-judicial authorities.
- (ii) Principle sources of administrative law in India are as follows:
 - (a) Constitution of India: This is the biggest sources of administrative law in India. As per Article 73 of Constitution. "the executive power of the Union extends to the matters in respect of which parliament can make laws. a similar power is given to State under Article 62.
 - (b) Act / Statutes: Acts passed by central government for maintenance of peace and order, tax collections, economic & social growth empower the administrative organs to carry on various tasks necessary for it.
 - (c) Ordinances, Administrative directions, Notifications, Circulars: Whenever the legislation is not in session & cannot make laws it allows the administration to make notifications & circulars for that time.
 - (d) Judicial Decisions.

2. Explain the rule of “nemo judex in causa sua” under Administrative Law. DEC 2020 (4 MARKS)

OR

Define the rule against bias under Administrative Law and also discuss its kinds. DEC 2021 (4 MARKS)

OR

"A judge is supposed to be indifferent to the parties to the controversy. He cannot act as a judge of a case in which he himself has some interest either pecuniary or otherwise as it affords the strongest proof against neutrality." Elucidate. JUNE 2023 (4 MARKS)

Ans:

- (i) According to the rule of “nemo judex in causa sua” no one should be a judge in his own case i.e. if a person has any kind of bias he would not be able to take an objective decision.
- (ii) This rule is based on two aspects:
 - (a) A judge should not be having any personal interest in any matter in front of him.
 - (b) There should not be any likelihood of bias.
- (iii) Bias can be of 3 types:
 - (a) Pecuniary bias – This means having any kind of financial interest in the matter before the judge. A judge or person would be disqualified to act as a judge in any matter where he has any kind of pecuniary interest however insignificant it may be.
 - (b) Personal bias - A personal bias is generally in the form of judge becoming a hostile to one of the party because he may be a friend/family or any professional relation.
 - (c) Subject-matter bias - A judge may have a bias in a particular subject matter brought in front of him but to disqualify him on this ground there must be a direct connection between the adjudicator and the issue in dispute.

3. Discuss the main features of Statutory Corporation Under Administrative Law. AUG 2021 (5 MARKS)

Ans:

The term 'Statutory Corporation' (or Public Corporation) refers to such organisations which are incorporated under the special Acts of the Parliament/State Legislative Assemblies. For example – LIC, RBI, BSNL, SEBI.

Features of statutory corporation under administrative law:

- (i) It is incorporated under Special Act.
- (ii) It is an independent body, free from Government control.
- (iii) It has a separate legal existence.
- (iv) It is managed by board of directors which includes trained and experienced individuals in managing business activities.
- (v) It is self-sufficient in financial matters. However, in case of necessity, they can take loan or financial assistance from the Govt.
- (vi) Employees are recruited as per their own terms and conditions which are decided by the board.

4. Administrative law is the by-product of over increasing functions of the Government. Now, States have on longer policies limited to maintaining internal order and external threats. Examine. AUG 2021 (4 MARKS)

Ans:

- (i) Administrative law has emerged due to the ever-increasing functions of the State. Earlier, governments were mainly limited to maintaining internal law and order and protecting the nation from external threats.
- (ii) Internal security and external defence still remain the essential duties of the State.
- (iii) However, Citizens today expect more than traditional services, so the modern State strives to be a welfare State.
- (iv) The government now undertakes tasks for development in areas like health, education, pollution control, and reducing inequality.
- (v) Emerging issues like Complex social and economic inequality can only be solved with a strong administrative system.
- (vi) Many activities earlier left to private enterprise are now carried out by the State.

5. Examine the necessity of Administrative discretion. JUNE 2022 (4 MARKS)**Ans:**

- (i) Administrative discretion means the right of the administrative body to choose amongst various alternatives.
- (ii) Any government of a welfare state cannot function without being given some amount of discretion. However, discretion is prone to abuse & every decision taken shall be with reference to the rule of reason & justice and not as per the personal whims.
- (iii) For any country to maintain the rule of law, there must be a check on the administrative organs.
- (iv) In India, Judicial control can be grouped into 3 heads:
 - (a) Constitutional – Courts check discretion through writs under the Constitution.
 - (b) Statutory – Laws provide appeals or references to higher authorities.
 - (c) Equitable – Courts can give remedies like injunctions or damages to prevent unfair use of discretion.

6. The biggest check over administrative action is the power of judicial review. Elaborate. DEC 2022 (4 MARKS)**Ans:**

- (i) Judicial review is considered as one of the biggest check over the administrative actions provided under the constitution.
- (ii) It gives powers to the courts to declare void any Act of legislature or executive if it is found contravening the constitution.
- (iii) Both supreme court & High court have the power to determine the validity of the actions of the government. It is not an appeal against the decision of the public authority but rather is a review as to how a decision has been taken.
- (iv) The court is not against the vesting of power in the public authorities, it is against unguided & uncontrolled power being vested in the repository.
- (v) The same was stated in Airport Authority of India v/s Centre of Aviation Policy, Safety & Research & Others. In this case the Supreme court held that the courts should not interfere with the administrative functions of tender making authority which means the authority has the right to decide which bid is suitable for them. The Court should not interfere unless the act is arbitrary or malafide.

7. Do you consider that there is no antithesis between effective government and controlling the exercise of administrative powers? DEC 2022 (4 MARKS)

Ans:

- (i) Administrative law ensures that government functions are exercised according to law, legal principles, and rules of reason and justice.
- (ii) Its main goal is to protect individuals from being unfairly affected by administrative actions and to provide a way to redress grievances.
- (iii) Controlling administrative powers does not reduce the effectiveness of government, because efficiency and justice can coexist.
- (iv) Administrative powers affect millions of people, so people's interests must always be the focus.
- (v) If exercised properly, administrative powers can lead to a welfare state, but if abused, they can result in misuse of power and an oppressive government.
- (vi) Therefore, there is no conflict between having an effective government and controlling administrative powers; proper control actually strengthens governance.

8. "Though the normal rule is that a person who is affected by administrative action is entitled to claim natural justice, that requirement may be excluded under certain exceptional circumstances." Discuss. DEC 2023 (5 MARKS)

Ans:

The principle of natural justice means that when administrative authorities take decisions affecting the rights of individuals, such decisions should be fair, just, and reasonable. Although natural justice is a very important principle, it can be disregarded in the following cases:

- (i) **Statutory exclusions** - The principle of natural justice can be excluded by making a statutory provision as to its exclusion. Where the law is silent, it is considered as mandatory to follow natural justice.
- (ii) **Emergency** - In cases of urgency, where a fast action is required, the principle of natural justice need not be followed, thus pre-decisional hearing may be excluded in the event of violation of public safety & morality. In case of Maneka Gandhi v/s Union of India the Supreme court upheld the impounding of passport without any pre-

decisional hearing but stated that as soon as possible post decisional hearing must be given.

- (iii) **Interim disciplinary action** - The rule of natural justice are not attracted in interim disciplinary action. In case of *Abhay Kumar v/s K Srinivasan*, a student was suspended by the college from entering the premises till the pendency of criminal case against him & the court in the case stated that the decision is interim & not final hence, the rule of natural justice is not applicable.
- (iv) **Academic evaluation** - If a student is removed from academic education on the ground of unsatisfactory performance, the requirement of pre-decisional hearing is not required.
- (v) **Impracticability** - Where the authority deals with a large number of people it is not practical to give all of them opportunity of being heard & in such conditions court does not insist on the observance of rule of natural justice. In *P. Radhakrishnan v/s Osmania University*, an exam was cancelled on the ground of mass copying & the court held that OOBH cannot be given to all the examinees, hence, natural justice cannot be observed.

9. PQR Construction Co. enters into a contract with the State Government for construction of a bridge. The contract was made in the name of the Governor. Examine the following with help of constitutional provisions: DEC 2023 (4 MARKS)

Whether the contract is valid? Is the Governor personally liable in respect of breach of the contract by the State Government?

Ans:

- (i) As per Article 299 of the Constitution, both Central government & State government are eligible to enter into a contract & can make valid & binding contract provided the following conditions are complied with:
 - (a) The contract must be in the name of President or Governor;
 - (b) It must executed on behalf of the President or Governor;
 - (c) A person duly authorised by President or Governor may execute the same.

- (ii) Further under Article 299(2), it has been clearly stated that neither the President or the Governor shall be personally liable in respect of any contract entered on their behalf.
- (iii) Any contract made in violation of the above shall be null & void.
- (iv) Hence, the contract is valid and the governor is not personally liable in respect of breach of contract by the state government.

10. 'The courts in India have developed various formulations to control the exercise of administrative discretion'. Discuss those conditions where the authority is charged with abuse of discretion and judicial review is exercised. JUNE 2024 (4 MARKS)

Ans:

- (i) Administrative discretion means the authority's right to choose from among various alternatives, but when such discretion is misused, the courts step in through the process of judicial review.
- (ii) Abuse of discretion occurs in the following situations:
 - (a) Malafide: The exercise of discretionary powers is considered bad if the authority has used the same with dishonest intention, this is considered as abuse of discretion & the action can be quashed by the Court.
 - (b) Irrelevant consideration: If the administrative authority takes into account factors & events which are wholly irrelevant to the purpose mentioned in the act & then such a decision is also considered abuse & can be declared void.
 - (c) Leaving out relevant consideration.
 - (d) Arbitrary orders: If an order passed by the authority is not based on facts or cogent reasoning, then it is considered bad & can be quashed.
 - (e) Improper purpose
 - (f) Colourable exercise of power: When the discretion exercised by the authority looks like that it has been used for the purpose for which it has been given but in reality for some other purpose then it is considered abuse of discretion & declared void.
 - (g) Non-compliance with procedural requirement & Principle of natural justice.

11. What do you understand by the Rule of Law? Enumerate three major principles of the rule of law propounded by Dicey. DEC 2024 (4 MARKS)

Ans:

- (i) The Rule of Law means that law is supreme and no person is above the law. It ensures equality, fairness, and protection of rights in a legal system.
- (ii) Major principles of Rule of Law propounded by Dicey are as follows:
 - (a) Supremacy of Law – Law is above all. No person can be punished except for a breach of law, and such punishment must be given through proper legal procedures.
 - (b) Equality before Law – Every person, high or low, is equal before the law. There is no special privilege for any individual, including government officials.
 - (c) Predominance of Legal Spirit – The rights of individuals are protected not by a written constitution alone, but by the decisions of ordinary courts which enforce these rights.

12. Suraj owned a mining company and had a lease of 99 years for exploiting coal from the coal blocks of the State B. His lease was cancelled by the revenue minister under the provisions of one of the applicable Laws of the State. Suraj had a past record of rivalry with the minister, as he had fought elections against him few years back. The minister too had filed a case against him of defamation in the past. Discuss the rule, which attracts this situation, and whether the cancellation order can become vitiated in law. DEC 2024 (5 MARKS)

Ans:

- (i) This situation attracts the rule against bias (Nemo iudex in causa sua). This rule means that no one should be a judge in his own case. If a person has any kind of bias, he cannot take an objective decision.
Bias can take different forms:
 - (a) Pecuniary bias – having financial interest in the matter, even if insignificant.
 - (b) Personal bias – arising from hostility, friendship, or rivalry with one of the parties.
 - (c) Subject-matter bias – where the authority has a direct connection with the issue in dispute.

- (ii) In the instant case, Suraj owned a mining company and held a lease of 99 years to exploit coal blocks in State B. His lease was cancelled by the Revenue Minister. However, there was clear personal rivalry between Suraj and the Minister. Suraj had fought elections against the Minister, and the Minister had even filed a defamation case against him earlier. This creates a situation of personal bias.
- (iii) Considering the above principle, the cancellation of Suraj's lease is vitiated in law as it was passed by an authority having personal rivalry. If a quasi-judicial or public body makes a decision without observing natural justice, such a decision becomes void and null. Therefore, the cancellation order can be struck down by the court for violating the rule against bias under natural justice.