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Study of Evolution of Administrative Law in India

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Abstract : The basic principles of natural justice and fair play were followed by the kings and officers in the name of dharma, which was a word with a scope wider than "rule of law" or "due process of law". This shows that administrative law was in existence in India even in ancient times. Under the Mauryas and Guptas there was a well organised and centralised administration in India. Though there was no administrative law in existence in the sense in which it exists today. Therefore, the evolution of administrative law in India can be divided into 3 phases:

- 1850-1900
- 1900-1947
- 1947-onwards

1. 1850-1900

With the establishment of East India Company and the British Rule in India the power of government increased. Many Acts, statutes, legislations were passed by British Government to regulate labour relations, safety, health, morality and transport. The practice of granting administrative licence began with the State Carriage Act, 1861. The first public corporation was established under the Bombay Port Trust Act, 1879. Delegated legislation was accepted by the Northern India Canal and Drainage Act, 1873 and the Opium Act, 1878. Proper and effective steps were taken to regulate the trade and traffic in explosives by the Indian Explosives Act, 1884. Many statutes and provisions were made regarding holding of permits and licences and for the settlement of disputes by the administrative authorities and tribunals.

II. 1900-1947

In the 20th century, social and economic policies of the government had significant impact on private rights of citizens. Government looked upon the subjects such as housing, employment, planning, education, health, service, pension, manufacture of goods, etc. Traditional legislative

and judicial system could not effectively solve these problems and thus gave rise to delegated legislation as well as tribunalisation.

During the World War II, there was a tremendous surge in the scope of executive power. The Defence of India Act, 1939 and the rules made thereunder conferred ample powers on the executive to interfere with life, liberty and property of an individual with less or no judicial control. The government issued many orders and ordinances covering several matters by way of administrative instructions.

III. 1947-onwards

Since the independence, the activities and the functions of the government have further increased. The philosophy of a Welfare State has been specifically embodied in the Indian Constitution. In the constitution itself provisions are there to secure social, economic and political justice, equality of status and opportunity to all citizens. The ownership and control of material resources of the society should be so distributed as to best sub serve the common good. The operation of the economic system should not result in the concentration of wealth and means of production with a few. For the implementation of all these objects, the State is vested with the power to impose reasonable restrictions even on the fundamental rights guaranteed by the constitution. To secure these objects, several Acts have been passed by the Parliament, such as:

- The Industrial (Development and Regulation) Act, 1956;
- The Maternity Benefit Act, 1961;
- The Payment of Bonus Act, 1965;
- The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969;
- The Equal Remuneration Act, 1976;
- The Urban Land (Ceiling and regulation) Act, 1976;
- The Beedi Workers Welfare Fund Act, 1976, etc.

Even while interpreting all these Acts and the provisions of the Constitution, the judiciary started taking into consideration the objects and ideals of social welfare.

In Joseph Kuruvilla Vellukunnel v. RBI[1], the Supreme Court held that under the Banking Companies Act, 1949, the Reserve Bank of India was the sole judge to decide whether the affairs of a banking company were being conducted in a manner prejudicial to the depositors interest and the court had no option but to pass an order of winding up as prayed by the Reserve Bank. In

Gujarat v. M.I. Haider Bux Imam Razci[2], the Supreme Court held that under the provisions of the Land Acquisition Act, 1894, ordinarily, the government is the best authority to decide whether a particular purpose is a public purpose and whether the land can be acquired for that purpose or not. In Raja Ram Pal v. Speaker, Lok Sabha[3], the Supreme Court held that if a Member of Parliament is found guilty by the House of improper conduct and is expelled, a court of law would not interfere with such action.

Now that the activities and powers of the government and administrative authorities have increased, there is a greater need for the enforcement of the rule of law and judicial review over these powers, so that the citizens are free to enjoy the liberty guaranteed to them by the Constitution. Remedies as to right to appeal, revision, etc. are given under Article 32, 136, 226 and 227 of the Indian Constitution. Order passed by the administrative authorities can be quashed and set aside if they are mala fide, dehors the Act or against the provisions of the Constitution. If the rules, regulations or orders passed by these authorities are not within their powers, they can be declared ultra vires, unconstitutional, illegal or void. Principle of judicial review is held to be part of "basic structure" of our Constitution.

References :

1. http://kalyan-city.blogspot.in/2010/10/growth-and-development-of.html
2. http://www.mightylaws.in/529/growth-administrative-law-india
3. https://www.lawnotes.in/Evolution_of_Administrative_Law
4. http://www.academia.edu/5498367/Administrative_Law_in_India
5. http://www.legalservicesindia.com/article/article/administrative-law-643-1.html