

INTRODUCTION

Administrative Law

The expression "Administrative Law" may mean two different things, namely, (a) law relating to administration, and (b) law made by the administration. The latter would itself be of two kinds. Firstly, it may be rules, regulations, orders, schemes, bye-laws, *etc.*, made by the administrative authorities on whom power to make such subordinate legislation is conferred by a statute. This may be called rule-making. Secondly, certain administrative authorities have power to decide questions of law and/ or fact affecting particular person or persons generally, *i.e.*, adjudication. Most of such powers are exercised quasi-judicially. Such decisions apply a statute or administrative policy and instructions to specific cases, in doing so they create a body of administrative law. Administrative law relating to administration engages the attention of lawyers. Administration is government or a department or an agency of the government. Under the Constitution of India, the powers of the state are divided between the Union (including the Union territories) on the one hand and the states on the other hand. Both the Union and the states are divided into three great departments, namely, (1) the executive, (2) the legislature, and (3) the judiciary. Administrative powers are exercised by the executive in either of two ways. It may act in exercise of the executive power of the Union or of a state or it may act under the authority of a specific statute or subordinate legislation. The exercise of all administrative powers is subject to the rule of law. The legal control may be exercised by three authorities, namely, (1) the legislature, (2) the higher executive, and (3) the judiciary. Administrative law concerns itself mainly with the legal control of the government or of administrative authorities by the courts.

Administrative law deals with the powers and functions of the administrative authorities, the manner in which the powers are to be exercised and remedies which are available to the aggrieved persons when those powers are abused by these authorities. It is impossible to attempt any precise definition of administrative law which can cover the entire range of administrative process but some of the definitions are as follows:-

Dicey has defined administrative law as denoting that portion of a nation's legal system

which determines the legal status and liabilities of all State officials, which defines the rights and liabilities of private individuals in their dealings with public officials, and which specifies the procedure by which those rights and liabilities are enforced. The definition is narrow and restrictive in so far as it leaves out of consideration many aspects of administrative law, e.g., it excludes many administrative authorities, which strictly speaking, are not officials of the States such as public corporations; it also excludes procedures of administrative authorities or their various powers and functions, or their control by Parliament or in other ways, Dicey's formulation refers primarily to one aspect of administrative law, i.e. control of public officials. Dicey formulated his definition with the *droit administratif* in view.

Definition by Ivor Jennings

According to Ivor Jennings "administrative law is the law relating to the administrative authorities". This is the most widely accepted definition, but there are two difficulties in this definition.

(1) It is very wide definition, for the law which determines the power and functions of administrative authorities may also deal with the substantive aspects of such powers.

For example: - Legislation relation to public health services, houses, town and country planning etc.. But these are not included within the scope and ambit of administrative law, and

(2) It does not distinguish administrative law from constitution law.

It lays entire emphasis on the organization, power and duties to the exclusion of the manner of their exercise. Jennings' formulation leaves many aspects of administrative law untouched, especially the control mechanism. The English administrative law does not lay so much emphasis on procedures of administrative bodies as does the American administrative law. Jennings; definition does not attempt to distinguish Constitutional law from administrative law, and the former "in its usual meaning has a great deal to say concerning the organization of administrative authorities.

It is impossible to attempt any precise definition of administrative law which can cover the entire range of administrative process. The American approach to administrative law is denoted by the definition by the definition of administrative law as propounded by Davis.

Definition by K. C. Davis

According to K. C. Davis, "Administrative law as the law concerns **the powers and procedures of administrative agencies**, including especially the **law governing judicial review of administrative action**".

It does not include the enormous mass of substantive law produced by the agencies. An administrative agency, according to him, is a governmental authority, other than a court and other than a legislative body, which affects the rights of private parties through either adjudication or rule-

making. The emphasis in the definition is on judicial control of administrative agencies. But other control mechanisms, like the parliamentary control of delegated legislation, control through administrative appeals, and through the ombudsman type institution, are quite important and significant and need to be studied for a full comprehension of administrative law.

Definition by Prof. Wade

According to Professor Wade any attempt to define administrative law will create a number of difficulties. But if the powers and authorities of the state are classified as legislative, administrative and judicial, then administrative law might be said "the law which concerns administrative authorities as opposed to the others".

There are some difficulties with this definition also. It fails to distinguish administrative law from constitutional law Like Jennings definition mentioned above; this is also very wide definition. It includes the entire legal field except the legislature and the Judiciary. It also includes the law of local government. It is also said that it is not possible to divide completely and definitely the functions of legislative, executive and judiciary.

It is very difficult to say precisely where legislation ends and administrative begins. Though enacting a law is functioning of the legislature the administrative authorities, legislate under the powers delegated to them by the legislature and this delegated legislation is certainly a part of administrative law. A satisfactory and a proper formulation to define the scope, content and ambit of administrative law can be: Administrative law deals with the structure, powers and functions of the organs of administration; the limits of their powers; the methods and procedures followed by them in exercising their powers and functions; the methods by which their powers are controlled including the legal remedies available to a person against them when his rights are infringed by their operation.