

Origin and Development of Administrative Law in France

Administrative law is the by-product of the growing socio-economic functions of the State and the increased powers of the government. Administrative law has become very necessary in the developed society, the relationship of the administrative authorities and the people have become very complex. In order to regulate these complexes, relations, some law is necessary, which may bring about regularity certainty and may check at the same time the misuse of powers vested in the administration. With the growth of the society, its complexity increased and thereby presenting new challenges to the administration we can have the appraisal of the same only when we make a comparative study of the duties of the administration in the ancient times with that of the modern times. In the ancient society the functions of the State were very few the prominent among them being protection from foreign invasion, levying of Taxes and maintenance of internal peace & order. It does not mean, however that there was no administrative law before 20th century. In fact administrative law itself is endemic of organized Administration.

Droit Administratif

French administrative law is known as Droit Administratif, which means a body of rules which determine the organization, powers and duties of public administration and regulate the relation of the administration with the citizen of the country. Droit Administrative does not represent the rules and principles enacted by Parliament. It contains the rules developed by administrative courts.

Napoleon Bonaparte was the founder of the Droit administrative. It was he who established the Conseil d'Etat. He passed an ordinance depriving the law courts of their jurisdiction on administrative matters and another ordinance that such matters could be determined only by the Conseil d'Etat. Waline, the French jurist, propounds three basic principles of Droit administrative:

- 1.** the power of administration to act suo motu and impose directly on the subject the duty to obey its decision;
- 2.** the power of the administration to take decisions and to execute them suo motu may be exercised only within the ambit of law which protects individual liberties against administrative arbitrariness;
- 3.** the existence of a specialized administrative jurisdiction. One good result of this is that an independent body reviews every administrative action The Conseil d'Etat is composed of eminent civil servants, deals with a variety of matters like claim of damages for wrongful acts of Government servants, income-tax, pensions, disputed elections, personal claims of civil servants against the State for wrongful dismissal or suspension and so on. It has interfered with administrative orders on the ground of error of law, lack of jurisdiction, irregularity of procedure and de tournement de pouvoir (misapplication of power). It has exercised its jurisdiction liberally.

Main characteristic features of droit administratif.

The following characteristic features are of the Droit Administratif in France:-

- 1.** Those matters concerning the State and administrative litigation falls within the jurisdiction of administrative courts and cannot be decided by the land of the ordinary courts.
- 2.** Those deciding matters concerning the State and administrative litigation, rules as developed by the administrative courts are applied.
- 3.** If there is any conflict of jurisdiction between ordinary courts and administrative court, it is decided by the tribunal des conflicts.
- 4.** Conseild'Etat is the highest administrative court.