Development of Administrative Law

Administrative law existed in India even in ancient times. Under the Mauryas and Guptas, several centuries before christ, there was well organised and centralised Administration in India. The rule of "Dharma" was observed by kings and Administrators and nobody claimed anyexemption from it. The basic principle of natural justice and fair play were followed by the kings and officers as the administration could be run only on those principles accepted by Dharma,which was even a wider word than "Rule of Law" or "Due process of Law", Yet, there was noAdministrative law is existence in the sense in which we study it today.

With the establishment of East India company and event of the British Rule in India. The powersof the government had increased. Many Acts, statutes and Legislation were passed by the British government regulating public safety, health, morality transport and labour relations. 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 Opium Act 1878 proper and effective steps were taken to regulate the trade and traffic in explosives by the Indian Explosives by the Indian Explosives Act 1884.

In many statutes, provisions were made with regard to holding of permits and licences and forthe settlement of disputes by the Administrative authorities and Tribunals.

During the Second World War, the executive powers tremendously increased Defence of India Act, 1939 and the rules made there under conferred ample powers on the property of an individual with little or no judicial control over them, In addition to this, the government issued many orders and ordinances, covering several matters by way of Administrative instructions.

Since independence, the activities and the functions of the government have further increased. Under the Industrial Disputes Act 1947, the Minimum Wages Act 1948 important social security measures have been taken for those employed in Industries.

The philosophy of a welfare state has been specifically embodied in the constitution of India. Inthe constitution itself, the provisions are made to secure to all citizens social, economic and political justice, equality of status and opportunity. The ownership and control of material resources of the society should be so distributed as best to sub serve the common good. The operation of the economic system should not result in the concentration of all these objects.

The State is given power to impose reasonable restrictions even on the Fundamental Rights guaranteed by the constitution. In Fact, to secure those objects, several steps have been taken by the parliament by passing many Acts, for example. The Industrial (Development and

Regulation) Act 1951, the Requisitioning and Acquisition of Immovable Property Act 1952, the Essential Commodities Act, 1955. The Companies Act 1956, the Banking Companies (Acquisition and Transfer of undertakings) Act, 1969. The Maternity Benefits Act, 1961, The Payment of BonusAct 1965, The Equal Remuneration Act 1976, The Urban Land (ceiling and Regulation) Act1976, The Beedi Worker's Welfare Fund Act, 1976 etc.

Even the judiciary has started taking into consideration the objects and ideals social welfare while interpreting all these Acts and the provisions of the Constitution. In the case of *Vellunkunnel v. Reserve Bank of India*, the Supreme Court held that under the Banking Companies Act, 1949 the Reserve Bank was the sole judge to decide whether the affairs of a Banking company where being conducted in a manner prejudicial to the depositors, interest andthe court had no option but to pass an order of winding up as prayed for by the Reserve Bank.

Also, in the case of *State of Andhra Pradesh v. C. V. Rao*, the Supreme Court dealing with departmental inquiry, held that the jurisdiction to issue a writ of certiorari under Article 226 is supervisory in nature. In is not an appellate court and if there is some evidence or record on which the tribunal had passed the order, the said findings cannot be challenged on the ground the evidence for the same is insufficient or inadequate. The adequacy or sufficiency of evidence is within the exclusive jurisdiction of the tribunal.

The Apex Court in *Shrivastava v. Suresh Singh* observed that in matters relating to questions regarding adequacy or sufficiently of training the expert opinion of public service commission would be generally accepted by the court.

The Supreme Court in *State of Gujrat v. M. I. HaiderBux* held that under the provisions of theLand Acquisition Act, 1994, Ordinarily, government is the best authority to decide whether a particular purpose is a public purpose and whether the land can be acquired for the purpose ornot.

Hence, on the one hand, the activities and powers of the government and administrative authorities have increased and on the other hand, there is great need for the enforcement of therule of law and judicial review over these powers, so that the citizens should be free to enjoy the liberty guaranteed to them by the constitution. For that purpose, provisions are made in the statutes giving right of appeal, revision etc. and at the same time extra-ordinary remedies are available to them under Article 32, 226 and 227 of the constitution of India. The Principle of judicial review is also accepted in our constitution, and the order passed by the administrative

authorities can be quashed and set aside if they are malafied or ultravires the Act or the provisions of the constitution.

And if the rules, regulations or orders passed by these authorities are not within their powers, they can be declared ultravires, unconstitutional, illegal or void.