JUDICIAL CONTROL OVER ADMINISTRATIVE PROCESS

Objectives of the course

Administrative law is mainly a judge-made law and has secured its present features through a myriad of judicial decisions. The historical evolution of the judicial agencies reviewing administrative procedures, jurisdictional aspects of administrative decision making subjected to review, the grounds on which decisions are challenged, the scope of review of delegated legislation and the limitations on the judicial review of administrative action are to be studied in detail in this course. The procedural fairness is the key to good administrative decision and the various remedies rendered in judicial process clear the way for achieving administrative justice. The ever increasing number of delegated legislation in the form of rules, regulations, circulars and general orders has the characteristics of law, which though framed by administration, impose burden on the rights of citizens. Keeping this specie of administration beyond judicial review is neither in the interests of the general public nor for laying down standards of administrative behaviour. This course, with the above mentioned perspective in view, comprises the following 5 units to be spread out to a period of one semester.

Syllabus

1. Concepts and Agencies
   Concept of judicial review in Common law countries and French system – Judicial review in India – Jurisdiction of Supreme Court, Administrative Tribunal and High Court

2. Grounds of review

3. Procedural fairness
   Procedural fairness – legitimate expectation – Natural justice and duty to act fairly – Bias and personal interest – Fair hearing.

4. Remedies
   Writs – Injunction and Declaration.

5. Limits of judicial review
   Locus standi and public interest litigation – Latches- Res judicata and alternative remedies.

PRESCRIBED BOOKS AND JOURNALS

S.P. sathe, Administrative Law (1998), Butterworths, India.
M.P.Jain, The Evolving Indian Administrative Law (1983), Tripathi, Bombay
M.P Jain, Principles of Administrative Law (1986), Tripathi
Fazal - Judicial Control of Administrative Action in India and Pakistan (1969)
Schwartz and Wade - Legal Control of Government Chs. 9-12
Davis - Administrative Law - Text Chs. 4, 11, 12 & 18-20
Brown and Garner - French Administrative Law - (1973) Chs. 7 & 9
Jaffe - Judicial Control of Administrative Action
A.T. Markose, Judicial Control of Administrative of India