



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 4 AND ISSUE 3 OF 2024

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 3 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-3-of-2024/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

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PROMOTING ADMINISTRATIVE LAW ON GOOD GOVERNANCE IN INDIA

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BEST CITATION – J TEJASWINI, PROMOTING ADMINISTRATIVE LAW ON GOOD GOVERNANCE IN INDIA, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 4 (3) OF 2024, PG. 499-504, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT:

This article shows the important role of administrative law in promoting good governance in India and also analysis the experience of citizen and highlighting the strengths and weakness of the country's administrative law system. The concept of governance refers to new management process or a method of how society should be managed. Governance is similar to government that does all work related to society and manage the society. The concept of governance appears to be a term used to understand how public and private collaborations take place between private individuals and state. Good governance will guide mechanism and methods for realizing issues that are done in the society such as participation, transparency, etc. Good governance is the effective, honest, fair, transparent and accountable use of public power by administrative authorities. Some principles of good governance such as accountability, transparency, participation, access information are also considered important in administrative law. Governance always helps us to act in the best interest of the business. Specifically, it helps to improve the business performance, unlock new opportunities, makes the business stable and productive. This abstract concludes that administrative law is essential for promoting good governance in India and promoting sustainable development.

Keywords: administrative law, good governance, accountability, transparency, India.

INTRODUCTION:

Good governance is the base of a healthy self-government, and executive law plays a vital task in assuring its effectiveness in India. The country's essential frame, legislative enactments, and judicial judgments have collectively shaped the figures of executive law, aiming to promote translucency, unaccountability, and the rule of law.

The Indian Constitution, through Articles 14, 19, and 21, guarantees basic rights and principles of natural justice, furnishing a foundation for executive law. The executive Bars Act, 1985, and the Right to Information Act, 2005,⁸⁶³ are significant legislative measures aimed at enhancing executive responsibility.

Judicial interventions, correspondent as the corner cases of Rajasthan State Road Transport

Corporation v. K. Nath⁸⁶⁴ and Maneka Gandhi v. Union of India⁸⁶⁵, have further strengthened the principles of executive law. These developments emphasize the account of executive law in promoting good governance in India.

Yet, challenges persist, and the need for effective executive law mechanisms remains pressing. This paper examines the task of executive law in promoting good governance in India, emphasizing its strengths, wants, and areas for reform.

CONCEPT OF GOOD GOVERNANCE IN INDIA

The concept of good governance in India encompasses various principles, including transparency, accountability, participation, responsiveness, and the rule of law. It aims to ensure that government processes are fair, equitable, and effective in serving the public

⁸⁶³ The right to information act, 2005, No. 22 of 2005

⁸⁶⁴ Rajasthan state road transport corporation v. K.Nath, AIR 1996 SC 2636

⁸⁶⁵ Maneka Gandhi v. Union of india, AIR 1978 SC 597

interest. Here's an overview of good governance in India.

Key Principles of Good Governance in India

- 1. Transparency:** good governance should be transparent to the government. They should disclose everything and should be truthful to the government. Citizens should have access information and details related to government processes and decisions.
- 2. Accountability:** Citizens must be accountable and liable for their actions. They should be answerable for their actions and they should give justifications. By being accountable citizens can promote effective governance, trust, credits, justice and fairness.
- 3. Participation:** It refers to being part in an activity or taking part in decision making process or social-interactions. Citizens should have opportunities to participate in decision-making process. It promotes empowerment and increases motivation, decision-making and accountability.
- 4. Responsiveness:** Government and its institutions should be responsive to the needs and wants of the citizens.
- 5. Rule of law:** Government should follow the established rules and regulations. It refers to fundamental principle that governs individuals, organizations, institutions and governments. It promotes stability and security to the citizens

Rule of law protects individual rights and freedom and it also supports economic growth and development. It ensures that accountability and transparency between citizens.

CASE LAWS

Vishaka v. State of Rajasthan (1997)

In this case, the Supreme Court laid down guidelines for preventing sexual harassment in

the workplace, reinforcing the importance of a safe working environment and the need for institutions to be accountable.⁸⁶⁶

People's Union for Civil Liberties v. Union of India (2001)

The Supreme Court recognized the right to food as part of the right to life under Article 21, emphasizing the government's responsibility to ensure food security, thus promoting welfare and accountability.⁸⁶⁷

RELATIONSHIP BETWEEN ADMINISTRATIVE LAW AND GOOD GOVERNANCE

DEFINITION OF ADMINISTRATIVE LAW:

Administrative law governs the activities of administrative agencies of government. It includes the rules, regulations, orders, and decisions created by administrative agencies.

PRINCIPLES OF GOOD GOVERNANCE:

Good governance involves principles such as transparency, accountability, participation, responsiveness, effectiveness, and rule of law. It ensures that public resources are managed in a just and equitable manner.

ROLE OF ADMINISTRATIVE LAW IN PROMOTING GOOD GOVERNANCE

As we have discussed earlier, there are five key principles of good governance in promoting administrative law. They are:

- Transparency
- Accountability
- Responsiveness
- Participation
- Rule of law

Cooper v. Wands Board of Works (1863)

This case highlighted the necessity of following due process before depriving a person of their property, emphasizing that good governance requires adherence to established legal procedures.⁸⁶⁸

⁸⁶⁶ Vishaka v. state of Rajasthan, AIR 1997 SC 3011

⁸⁶⁷ People's union for civil liberties v. union of India, AIR 2001 SC 2086

⁸⁶⁸ Cooper v. Wands Board of Works (1863) 14 CB (NS) 180.

R v. Secretary of State for the Home Department, ex parte Simms (2000)

The House of Lords ruled that the right to freedom of expression is a fundamental right that cannot be curtailed without sufficient justification. This decision supports good governance by protecting citizens' rights against administrative overreach.⁸⁶⁹

ACCOUNTABILITY MECHANISMS IN GOVERNANCE

Accountability plays a vital part in good governance. It ensures that citizens should be accountable for the actions they have done. They are answerable for their actions and decisions. Here are some key mechanisms that promote accountability in governance:

- Judicial review:
Judicial review refers to the constitutional mechanism. It allows the courts to examine the decisions taken by:
 1. Executive branch- it refers to government agencies and ministers
 2. Legislative branch – this refers to rules and regulations
 3. Administrative bodies – it refers to tribunals and commissions

Types of judicial review:

1. Substantive review: Examines the merits of a decision
2. Procedural review: Examines the process leading to a decision
3. Judicial review of administrative action: Examines decisions made by administrative bodies

CASE LAW

The State of Bihar v. Kripalu Shankar (1989)

In this case it established the principle that judicial review is a basic feature of the Constitution.⁸⁷⁰

SP Sampath Kumar v. Union of India (1987)

In this case it clarified that judicial review is not limited to the examination of the decision-making process but also extends to the decision itself.⁸⁷¹

West Virginia State Board of Education v. Barnette (1943)

In this case, it established the principle that judicial review is available to protect individual rights and freedoms.⁸⁷²

- Ombudsman:
The term "Ombudsman" originated in Sweden and it means "representative" or "agent."
Key characteristics of an ombudsman:
 1. Independent: ombudsman is an independent officials. They control by the organization or agents or government by investigation.
 2. Impartiality: they will not see any partiality between citizens, unbiased and neutral in resolving the complaints.
 3. Accessibility: they can easily reachable by the public so that they can resolve the problems of the citizens
 4. Free service: there is no cost for such services. For each and every citizens in the society are served by free cost.
 5. Confidentiality: investigations and such other works should be done confidentially so that the citizens can believe them.

⁸⁶⁹ R v. Secretary of State for the Home Department, ex parte Simms [2000] 2 AC 115.

⁸⁷⁰ The State of Bihar v. Kripalu Shankar, AIR 1989 SC 147.

⁸⁷¹ SP Sampath Kumar v. Union of India, AIR 1987 SC 386.

⁸⁷² West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943).

Benefits of the ombudsman:

1. It promotes accountability and transparency
2. It protects individuals freedom
3. Improves organizational performance
4. Enhances trust and confidence
5. Resolves disputes efficiently

Examples of Ombudsmen:

1. US Office of the Inspector General
2. UK Parliamentary and Health Service Ombudsman
3. Australian Commonwealth Ombudsman
4. European ombudsman

- Right to information (RTI):

RTI is a fundamental right it enables the citizens to access information held by government bodies.

It allows individuals to:

1. To know what is happening behind the government
2. It inspect government records and aspects
3. It allows the citizens to access information
4. To make copies of public records

The right to information is based on the principle that information held by public authorities is a public asset and that citizens have a right to access it. It promotes transparency and accountability in governance, citizens have right to access information, and it ensures the accountability of public officials.

- Administrative tribunals:

Administrative Tribunals are quasi-judicial bodies. It plays a crucial role in promoting good governance. They provide an alternative dispute resolution mechanism, ensuring citizens' rights are protected and administrative decisions are fair and just.

It has several functions, they are:

1. It hear appeals against administrative decisions.

2. It interprets statutes and regulations.
3. It provide relief against administrative actions

CASE LAW

Wong Yang Sung v. McGrath

In this case it held that due process requires fair procedures in administrative hearings.⁸⁷³

Rajendra Singh v. State of Madhya Pradesh

It Held that Tribunals can examine legality of government policies.⁸⁷⁴

- Citizen engagement and participation:

Citizen engagement and participation refers to the involvement of a citizens in the decision-making process, social organizations, and public authorities.

ENVIRONMENTAL GOVERNANCE THROUGH ADMINISTRATIVE LAW:

Environmental governance through administrative law refers to the use of administrative procedures, regulations, and institutions to manage environmental issues and promote sustainable development. Administrative law plays important role in Environmental policy implementation, Regulation and standard-setting, Permitting and licensing, Public participation and access to information, Enforcement and compliance, Dispute resolution and judicial review.

Environmental governance through administrative law faces several specific challenges:

1. Regulatory Complexity: The detailed web of laws and regulations can create confusion and make effective enforcement and compliance.
2. Insufficient Capacity: there is lack of necessary resources, training, and personnel to effectively implement and monitor environmental laws.
3. Inconsistent Enforcement: Variability in enforcement across different

⁸⁷³ Wong Yang Sung v. McGrath (339 U.S. 33, 1950)

⁸⁷⁴ Rajendra Singh v. State of Madhya Pradesh (1996) 4 SCC 232

jurisdictions can lead to unequal protection of environmental resources and weakened compliance.

4. Limited Public Engagement: Barriers to meaningful public participation can prevent communities from influencing decisions that impact their environment, leading to a lack of trust in governance.
5. Political and Economic Pressures: Short-term political interests and economic considerations often successful long-term environmental goals, affecting the commitment to enforce regulations.

CASE LAW

Vellore Citizens Welfare Forum v. Union of India (1996)

The Supreme Court recognized the precautionary principle and the polluter pays principle as essential components of environmental governance.

Indian Council for Enviro-Legal Action v. Union of India (1996)

The Supreme Court held that industries must adhere to strict environmental standards and that violations would lead to substantial penalties.

NGO CONTRIBUTIONS TO GOOD GOVERNANCE:

NGO's play a vital role in promoting good governance by enhancing accountability, citizen participation, transparency, etc. there are some key areas, they are:

1. It promotes transparency and accountability by monitoring government authorities and actions
2. Enhancing Citizen Participation by educating citizens on their rights and responsibilities, encouraging civic engagement and voter registration, and providing platforms for public debate and discussion.
3. Improving Service Delivery by Providing essential services like healthcare, education, etc, monitoring government service delivery, advocating for policy

reforms and collaborating with governments on service improvement

4. Fostering Collaboration and Partnerships by Building coalitions with other NGOs and stakeholders, collaborating with governments and international organizations, supporting public-private partnerships.

Challenges faced by NGO's

- Funding constraints
- Government restrictions and censorship
- Limited capacity and resources
- Competition with other NGO's
- Maintaining independence and credibility

CASE LAW

1. Centre for Social Justice v. Union of India (2010)

This case addressed the issue of funding for NGOs and the implications of foreign contributions. The Supreme Court emphasized the need for transparency and accountability in funding processes.⁸⁷⁵

2. Laxmi Narayan v. Union of India (2014)

This case involved the rights of marginalized communities and the role of NGOs in advocating for their rights. The court acknowledged the contributions of NGOs in social reform.⁸⁷⁶

CONCLUSION:

In this article we have discussed how to promote administrative law on good governance. In many ways we have promote like transparency, accountability, participation, etc. We have also discussed about NGO contribution, accountability mechanism, environmental governance, through these principles we can see the good governance development. By promoting effective administrative law, governments can ensure good governance, protect human rights, and foster a just and equitable society.

⁸⁷⁵ Centre for Social Justice v. Union of India, (2010) 1 SCC 742.

⁸⁷⁶ Laxmi Narayan v. Union of India, (2014) 2 SCC 1.

Promoting administrative law is essential for enhancing good governance. By ensuring transparency, accountability, and fairness in public administration, administrative law helps protect citizens' rights and promotes trust in governmental institutions.

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