

A CRITICAL ANALYSIS ON RELATIONSHIP BETWEEN CONSTITUTIONAL LAW AND ADMINISTRATIVE LAW

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Abstract:

In our country constitution is the grundnorm. Constitution is above all and it protects the life of the individual. Constitution is static as it is written form whereas administrative law is dynamic in nature which is ever growing in nature according to the societal development and need of the society. Constitutional Law provides way for the administrative action for the betterment of the society. Administrative law is not totally independent in nature but it is co related to Constitutional law. Constitution Law is the mother of Administrative Law.

Keywords:Grundnorm, Static, Dynamic

Introduction:

Constitutional law deals with the organs of the government and administrative law deals with functions of those organs. While Administrative law deals with the organizations, powers, functions, and duties of administrative authorities, the constitutional law deals with the general principles relating to these organizations and powers and the relationship of these organs with the individuals. However, in countries with a written constitution there was an additional source of control over administrative action. A written constitution yields control over all the organs of the body politic.⁶² While one may attempt to distinguish the scope of administrative law from that of constitutional law but it's impossible to dissociate them both.⁶³

The court in **Suk Das v. Union Territory of Arunachal Pradesh**⁶⁴ held that in the relationship between Constitutional Law and Administrative Law, there lies a rational nexus

between both the laws as Administrative Law functions to preserve the sanctity of principles, duties, rights, obligations etc. laid down by Constitutional Law.

Historical background:

Constitutional law :

In 1947 India got independence and then the Indian constituent assembly had brought up a drafting committee for the purpose of making the constitution for the Indian government. Dr. Ambedkar had been appointed as a head of the drafting committee and he had done a lot of research study about the constitution of other countries. Finally after two years the constitution had been written. In 1949 November 26 Indian constituent assembly was approved for the constitution. The Indian constitution was effective on January 26 1950. The Indian constitution is a federal form of constitution in which there is a central government which is governed by the President and state government which is governed by the Governor. The preamble of the Indian constitution declared that India is a secular country. Further, India is a sovereign democratic republic country

⁶²Jennings, Ivor, Law and The Constitution (5thEdn., 1995), p.217.

⁶³Aberham Yohannes and Michael G Desta, Constitutional law and Administrative law, <https://www.abysinnialaw.com/component/k2/item/294-constitutional-law-and-administrative-law> (13th August 2019, 9:00pm)

⁶⁴ 1986 AIR 991, 1986 SCR(1) 590, 1986 SCC(2) 401, 1986 SCALE(1) 368

Administrative law:**Droit administrative:**

Napoleon Bonaparte has founded the Droit Administrative and also the Counsel d'etat. It is considered as the highest administrative court. He further proceeded that administrative matters should be discussed in the Counsel d'Etat.

In India:

Administrative law in India has been discovered during the period of Mauryas and Guptas.

Pre independence:

Before the Independence the British ruled India, during that period administrative law evolved according to the modern period. India was a police state before independence. The state did not consider much about the welfare of the people.

Post independence:

After India got independence, India has been declared as a welfare state. The citizens should be provided with the basic needs of life. The government plays a key role in protecting the social welfare of the people. The administrative law provided the directive principles of state policy which should protect the socio-economic goals of the state.

Relationship between constitutional law and administrative law:

The relationship between constitutional law and administrative law has been connected with each other. In fact, administrative law is a part of the constitutional law which deals with the administrative actions.

Constitutional law deals with the structure, powers and functions of the organs of the government and the administrative law deals with the powers and duties of administrative actions and decision making processes.

Some provisions of constitutional law have some direct contact with the administrative law. For example, Article 21 which deals about the right to life and liberty, administrative law also

deals with the matters related with the personal liberty which includes arrest and procedural safeguards.

Judicial review in constitutional law involves the power to determine whether the laws passed are constitutional or unconstitutional. In Administrative law judicial review involves the power to determine the actions of other organs.

The system of checks and balances is a feature of constitutional law and also administrative law in which ensures that the administrative actions taken should be in relation to the constitutional provisions.

Similarities between constitutional law and administrative law:**1. Regulations:****Constitutional law:**

Constitutional law addresses the responsibilities of each organ of the government and offers a comprehensive framework for the government.

Administrative law:

Administrative law addresses specific duties performed by the administrative agencies and guarantees that decisions are made in conformity with the fundamental principles of constitutional law.

2. Legal framework:**Constitutional law:**

Constitutional law provides a supreme legal framework and should be followed by other laws.

Administrative law:

Administrative law deals with the decision making processes and makes sure that the legal principles are followed by administrative bodies.

3. Protection of rights:**Constitutional law:**

Constitutional law directly protects the fundamental rights and principles such as freedom of speech, equal protection etc.

Administrative law:

By guaranteeing equal chances and hearing and prohibiting arbitrary acts administrative law makes sure that administrative activities also preserve these rights.

4. Procedural safeguards:

Constitutional law:

Constitutional law safeguards the procedural rights by providing fair judgement under law.

Administrative law :

Administrative law mandates that administrative bodies adhere to certain procedural guidelines like giving notice and using impartial decision making.

5. Judicial review:

Constitutional law:

Judiciary should review whether the laws passed are constitutional or unconstitutional

Administrative law:

The court also determines that administrative activities are lawful and accordance with the fundamental principles of constitutional law.

Differences between constitutional law and administrative law:

1. Nature of Law :

Constitutional law:

Constitutional law is the highest form of law of the nation.

Administrative law:

Administrative law is ancillary to constitutional law.

2. Work:

Constitutional law:

It addresses the structure and functions of the organs of the state.

Administrative law:

It addresses the functions of the executive organ of the state.

3. Codification:

Constitutional law:

It is codified into a single text.

Administrative law:

It is not a codified law

4. Making of law:

Constitutional law:

Law made by the parliament.

Administrative law:

It is of judge made laws.

5. Supersede

Constitutional law:

It can supersede the administrative law.

Administrative law:

It cannot supersede constitutional law.

6. International relation

Constitutional law:

It also deals with the guidelines relating to international law.

Administrative law:

It cannot deal with international law and it only deals with the functions of the administrative authorities.

7. Functioning with the organs of the state:

Constitutional law:

It deals with all the organs of the state such as legislative, executive and judiciary.

Administrative law:

It deals with the functions of the executive organ of the state.

8. Source of authority:

Constitutional law:

Constitutional law comes from the constitution.

Administrative law:

Administrative law comes from the laws made based on the past decisions.

9. Flexibility:

Constitutional law:

It cannot change easily unless a significant change in circumstances arises.

Administrative law:

It can change more easily according to the development of society.

10. Impact on individuals:

Constitutional law:

Constitutional law protects the fundamental rights of an individual from government actions.

Administrative law:

Administrative law affects the people's deals with the administrative agency.

Criticism:

1. Overlapping:

The problem arises because administrative law intrudes with constitutional law. If Administrative law issues functions of legislature and executive then it leads to the constitutional issue. This overlapping leads to confusion among the constitutional law and administrative law.

2. Fundamental rights:

Constitutional law made to protect the fundamental rights of the individuals such as equal protection, freedom of speech etc. But in administrative law, it is not the same. In some cases, administrative agencies made decisions which can violate fundamental rights such as the right to fair hearing and unfair treatment by the government.

3. Transparency and accountability:

Constitutional law addresses the public scrutiny from the legislative and judiciary review. While administrative law deals with the rule making and administrative adjudication which might not have the same level of public accountability. This may lead to the issue that administrative law did not align with the constitutional law.

4. Excessive delegation:

Administrative law has the power of excessive delegation which means the authority has the power to repeal Acts of Parliament. The grant of delegation is also called as Benea VIII clause . But this power violates Artie 14 under constitutional law .

5. Expansion of executive power:

Constitutional law is meant to limit the powers of the government and maintain a separation of powers between the executive, legislature, and judiciary. However, administrative agencies (part of the executive branch) often hold substantial authority to regulate and enforce laws. This can lead to the executive branch dominating other branches, particularly when administrative agencies are given the power to create detailed regulations that have the force of law, potentially undermining legislative authority. This "administrative state" can become so powerful that it weakens constitutional safeguards.

6. Procedural fairness:

While constitutional law demands rigorous protection of individual rights through processes like fair trials and hearings, administrative law can sometimes allow for decisions to be made without these procedural guarantees. Administrative hearings are often less formal, with fewer safeguards for individuals. This can result in arbitrary or biased decision-making by administrative bodies, which undermines the constitutional principles of due process and fairness.

Reforms :

1. Strengthening Judicial Review:

A crucial change that has to be implemented is to enhance the judicial scrutiny of administrative decisions. For the purpose of preventing the executive branch from exceeding its authority, courts need to be more proactive in examining the validity and constitutionality of administrative judgments. In particular, when individual rights are at risk, this

entails lessening judicial deference and making sure that courts hold administrative entities responsible for abiding by constitutional standards.

For instance, there has been increasing discussion in places such as the United States regarding the Chevron deference concept, which permits courts to accept an agency's interpretation of statutes that are unclear. In order to guarantee that courts take a more proactive approach to interpreting legislation and defending constitutional values, legal scholars and reform activists have urged for curtailing or doing away with Chevron deference.

2. Improving Accountability Mechanisms:

Reforms to improve administrative agencies' accountability procedures have been suggested as a solution to the problem of administrative overreach. This can be accomplished by:

Independent Oversight:

Putting in place impartial oversight organizations to make sure administrative agencies carry out their assigned duties. These oversight organizations would keep an eye on agency operations and make sure that laws and the constitution are followed.

Legislative Oversight:

Encouraging legislative or parliamentary monitoring of administrative agencies' decisions can assist guarantee that they are in the public interest at large. Legislators might tighten restrictions on the transfer of authority, mandate more frequent reporting, or scrutinize regulatory actions more closely.

3. Enhancing Protection of Fundamental Rights:

Ensuring that administrative law procedures provide strong protections for basic rights is another important area for reform.

Mandating Constitutional Review:

Judgments made by administrative authorities could be forced to specifically take into account constitutional rights, and people should have easier ways to contest judgments that violate their rights.

Incorporating Due Process Protections:

Administrative procedures must to be revised to incorporate stronger due process protections, like the rights to an impartial hearing, an appeal process, and legal counsel. By implementing these changes, administrative decisions that have an impact on specific people would be made equitably and in conformity with constitutional values.

4. Clarifying the Scope of Delegated Powers:

Providing more precise criteria for the transfer of legislative authority to administrative bodies is one reform proposal.

This would entail: Limiting the Scope of Delegation: By designing enabling legislation with more precise and unambiguous language, legislators should restrict the latitude that administrative agencies have to operate. By doing this, agencies would be prevented from going beyond their authority or from making arbitrary choices. Enabling legislation may incorporate sunset clauses that mandate periodic review or renewal of the delegated powers in order to prevent administrative overreach. This would guarantee that administrative rules continue to be in line with the objectives of current public policy and constitutional standards.

5. Simplifying and Codifying Administrative Procedures:

5. Reforms aimed at reducing the intricacy and opaqueness of administrative law can concentrate on streamlining and improving administrative procedures. This might entail: Bringing Together Administrative Laws: People and practitioners would comprehend the processes for contesting administrative decisions if current administrative laws were

made simpler and more comprehensible. Campaigns for Public Awareness: Public awareness campaigns could be funded by governments and administrative organizations to inform the public about their legal rights and the resources available to them under administrative law.

6. Balancing Efficiency with Accountability:

Although administrative law is necessary for effective government, changes should be made to make sure that efficiency doesn't come at the expense of justice and accountability. You can accomplish this balance by: Introducing a Proportionality Test: When making decisions that impact constitutional rights, administrative authorities ought to be obligated to follow the proportionality principle. This would entail determining whether the action is required, if it accomplishes a justifiable objective, and whether or not the harm on individual rights is commensurate with the objective being pursued. Periodic Legislative evaluation of Administrative Regulations: To make sure administrative regulations don't excessively restrict personal liberties or violate constitutional principles, legislatures should set up procedures for their periodic evaluation.

Conclusion:

There is a difference between administrative law and constitutional law. They have complex relationship that is vital to contemporary governance. Administrative law deals with the day to day operations of government whereas constitutional law deals with basic legal framework defining the division of powers and safeguarding individual rights. It gives administrative agencies the authority to carry out and upload legal requirements, allowing the state to operate effectively in meeting intricate societal demands.

Thus there are difference as well as similarities in this area. Administrative law on the one hand must operate within the bounds set forth by constitutional law that guarantees the government's powers are used in accordance

with the rule of law and with regard for fundamental rights. On the other hand, it conflicts about accountability, the weakening of judicial monitoring, and the misuse of executive power have been raised by the growing transfer of legislative and judicial tasks to administrative bodies.

References:

Bibliography

- 1.P. MASSEY'S Administrative Law 10th edition EBC 2022.
- 2.M P JAIN and S N JAIN Principles of Administrative Law 14th edition Wadhwa and company Nagpur 2003.
- 3.C.K. TAKWANI Lectures on Administrative Law 8th edition EBC 2024.
- 4.Dr. Kailash Rai Principles of Administrative Law 10th edition Allahabad Law Agency 2024.
- 5.S P Sathe Administrative Law 7th edition LexisNexis 2004.

Webliography

<https://indiankanoon.org/>