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TO STUDY ON JUDICIAL REVIEW OF ADMINISTRATIVE ACTION ON THE GROUND OF VIOLATION OF FUNDAMENTAL RIGHTS

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ABSTRACT

This study explores the evolving role of judicial control in monitoring administrative actions, particularly in cases of violation of fundamental rights. Administrative law serves as the framework within which public authorities operate, and judicial review acts as an essential safeguard, ensuring that these authorities remain within their legal limits. The protection of fundamental rights, provided for in constitutional law, is an essential function of the judiciary when it comes to fighting executive excesses. The study examines the historical development of judicial review in administrative law, tracing its evolution from the traditional emphasis on legality, reason and procedural fairness, to its current role in the protection of constitutional rights. It analyzes the historical decisions in which the courts invoked the principle of judicial review to limit administrative actions that violate fundamental rights, assessing the balance between administrative discretion and the protection of individual liberties. The study also examines the criteria and standards used by courts to assess rights violations, such as the proportionality test and the doctrine of legitimate expectations. The article supports a strong judicial mechanism that not only makes the administrative authorities responsible, but also affirms the role of the judiciary as a protector of constitutional rights. Judicial review is a great institution and forms a fundamental part of the system of checks and balances without which no democracy worthy of the name can function. Judicial review is an aspect of state judicial power that is exercised by Courts to determine the validity of a rule of law or the action of a state agency. Courts, through writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto, control administrative actions. The main sources of administrative law are statutes, regulatory instruments, precedents and customs. The article discusses the doctrine of ultra vires and remedies for judicial review. The power of judicial review has become an important area of administrative law because Courts have proven more efficient and useful than legislative or administrative powers.

INTRODUCTION

Administrative action is the residuary action which is neither legislative nor judicial. It is concerned with the treatment of a particular situation and is devoid of generality. It has no procedural obligations of collecting evidence and weighing arguments. It is based on subjective satisfaction where the decision is based on policy and expediency. It does not decide a right though it may affect a right. However, it does not mean that the principles of natural justice can be ignored completely when

the authority is exercising “administrative powers”. Unless the statute provides otherwise, a minimum of the principles of natural justice must always be observed depending on the fact situation of the concept of judicial review of administrative action is a cornerstone in modern constitutional democracies, ensuring that administrative authorities exercise their powers within the limits of the law. In particular, judicial review plays a crucial role in protecting fundamental rights, which are the essential freedoms and liberties guaranteed to

individuals under the constitution. In this context, the judiciary acts as a guardian, ensuring that executive actions do not overstep their boundaries or violate the rights of citizens.

The importance of judicial review has grown with the expansion of administrative functions in the state. As governments engage more deeply in regulating various aspects of economic, social, and political life, the risk of arbitrary or disproportionate action by administrative bodies becomes significant. Therefore, the power of the judiciary to scrutinize these actions for their constitutionality and compliance with fundamental rights has become a vital aspect of governance.

This research will explore the judicial review of administrative actions, specifically when these actions are challenged on the grounds of violating fundamental rights. It will examine the legal framework governing such review, the principles developed by courts in dealing with cases of fundamental rights violations, and the evolving jurisprudence in this field. By focusing on the balance between administrative discretion and individual rights, this study seeks to contribute to the ongoing discourse on how the judiciary can ensure that administrative powers are exercised lawfully while protecting the core values enshrined in fundamental rights. The research will analyze significant case laws, legislative provisions, and constitutional principles that underscore the relationship between administrative actions and fundamental rights protection, providing insight into the role of judicial review as a tool for safeguarding the rule of law. In doing so, this study aims to offer a comprehensive understanding of how courts intervene to protect individuals from administrative excesses and uphold the constitutional guarantees of fundamental rights, contributing to the broader understanding of administrative law and constitutional protections.

REVIEW OF LITERATURE

Constitutional and Legal Framework-
Fundamental Rights: Start by reviewing the

fundamental rights enshrined in the Constitution. In India, these are found in Part III (Articles 12 to 35) of the Indian Constitution. Key rights such as the right to equality (Article 14), right to life and personal liberty (Article 21), and freedom of speech and expression (Article 19) are frequently invoked in judicial reviews.

Constitution of India, Bare Act.

Austin, Granville, The Indian Constitution: Cornerstone of a Nation.

Jain, M.P., Indian Constitutional Law.

Judicial Review: Explore the concept of judicial review, a mechanism through which the courts review the legality of administrative actions. The literature will need to cover the origins of judicial review (both in common law and through constitutional provisions such as Article 13).

Dicey, A.V., Introduction to the Study of the Law of the Constitution.

Wade, H.W.R., Administrative Law.

Seervai, H.M., Constitutional Law of India.

Administrative Law Principles- Doctrine of Ultra Vires: The principle that administrative actions must not exceed the authority granted by law is a cornerstone of judicial review. Administrative actions found to be "ultra vires" are void ab initio.

Wade, H.W.R., Administrative Law (Chapter on Ultra Vires).

Craig, Paul, Administrative Law.

Wednesbury Unreasonableness: The principle from Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation (1948) defines unreasonable administrative action that courts can overturn.

Wednesbury Case Analysis in Administrative Law.

Craig, Paul, Administrative Law.

Judicial Precedents in the Context of Fundamental Rights

Kesavananda Bharati v. State of Kerala (1973): A landmark decision where the Supreme Court of India reinforced the basic structure doctrine, ensuring that fundamental rights cannot be altered by the government.

Maneka Gandhi v. Union of India (1978): Expanded the interpretation of Article 21 (right to life and personal liberty) to include procedural fairness in administrative actions.

I.R. Coelho v. State of Tamil Nadu (2007): Judicial review was reaffirmed as a basic feature of the Constitution that cannot be taken away even by constitutional amendments.

SC cases (Judis.nic.in).

Sathe, S.P., Judicial Activism in India.

Uppendra Baxi, Courage, Craft, and Contention: The Indian Supreme Court in the Eighties.

Grounds of Judicial Review Based on Fundamental Rights- Arbitrariness (Violation of Article 14): Actions that are arbitrary or discriminatory are struck down for violating the right to equality. This was notably elaborated in E.P. Royappa v. State of Tamil Nadu (1974), where the court stressed the link between arbitrariness and Article 14.

Proportionality Test: This principle balances the objective of an administrative action against the means used to achieve it. It is a frequent test in administrative law cases concerning fundamental rights.

Violation of Natural Justice: Courts have routinely used the violation of principles of natural justice (such as audi alteram partem) as grounds for invalidating administrative actions.

De Smith, Woolf, and Jowell, Principles of Judicial Review.

Wade, H.W.R., Administrative Law (on Natural Justice and Arbitrariness).

OBJECTIVES OF THE STUDY

- To analyze the scope of judicial review: Examine how courts exercise their power to review administrative

actions that are alleged to violate fundamental rights.

- To identify the limits of administrative discretion: Investigate the boundaries within which administrative authorities operate and the extent to which their actions can infringe upon fundamental rights.

- To evaluate judicial precedents: Study key judicial decisions where courts have intervened in administrative actions to protect fundamental rights, providing a framework for understanding how the judiciary safeguards constitutional guarantees.

- To assess the effectiveness of judicial remedies: Explore the remedies available through judicial review when an administrative action violates fundamental rights, and evaluate their effectiveness in practice.

- To suggest reforms: Based on the findings, suggest potential reforms to strengthen judicial review mechanisms, ensuring a balance between administrative efficiency and protection of fundamental rights.

- This research would contribute to a better understanding of the role of the judiciary in upholding fundamental rights against arbitrary or unlawful administrative actions

RESEARCH METHODOLOGY

The research methodology for this study involves an exploratory and comparative analysis using qualitative and quantitative approaches. Legal Analysis: Conduct an indepth study of case laws and statutory interpretations to understand how courts have applied principles of judicial review in cases involving fundamental rights.

Doctrinal Mapping: Trace the evolution of legal doctrines relating to judicial review and their role in upholding fundamental rights. Study the

historical development of judicial review in the legal system being studied, especially how courts' powers have evolved in response to changes in the political and social environment.

Examine significant constitutional amendments, executive orders, and political events that may have shaped judicial review jurisprudence.

SIGNIFICANCE OF THE STUDY

- **Protection of Fundamental Rights:** Judicial review serves as a crucial mechanism to safeguard fundamental rights. When administrative actions are challenged on the grounds of violating these rights, the courts play a central role in ensuring that the executive or administrative bodies do not overstep their authority or infringe upon individual liberties. This study would illuminate how effectively judicial review serves this protective function.
- **Promoting Accountability:** Administrative authorities exercise significant power, and without judicial oversight, there could be arbitrary or unlawful actions. Judicial review acts as a check, ensuring that administrative bodies adhere to constitutional limits. This study would assess the effectiveness of judicial review in holding administrative bodies accountable for their actions that may infringe on fundamental rights.
- **Constitutional Balance:** The study would contribute to understanding the balance between administrative efficiency and constitutional rights. While administrative bodies need some flexibility in decision-making, they cannot operate outside the law or disregard rights guaranteed by the constitution. The research would explore how courts strike this balance, preserving individual freedoms while allowing the government to function effectively.

- **Legal Precedents and Judicial Activism:** By analyzing cases where administrative actions were overturned due to violations of fundamental rights, the study would reveal the role of courts in shaping public administration and government policy. It could also provide insight into trends of judicial activism or restraint in defending citizens' rights.
- **Impact on Policy and Governance:** A thorough understanding of judicial review concerning fundamental rights could influence future policy reforms. Governments may reconsider how administrative bodies operate, ensuring that their actions comply with constitutional norms, especially regarding the protection of citizens' rights.

HYPOTHESIS

- Increased judicial activism in reviewing administrative actions leads to a more effective protection of fundamental rights.

The level of independence of the judiciary correlates with the frequency and success rate of judicial review cases concerning fundamental rights violations by administrative bodies.

- The presence of clear legal standards for judicial review enhances the consistency and predictability of outcomes in cases involving fundamental rights infringements by administrative authorities.
- The political environment and government ideology influence the judiciary's approach to reviewing administrative actions that impinge on fundamental rights.
- Procedural safeguards and access to legal remedies play a significant role in ensuring effective judicial review of administrative decisions violating fundamental rights.

Grounds for Judicial Review of Administrative Actions

1. Illegality 2. Irrationality 3. Procedural impropriety 4. Proportionality Judicial review means the review made by the courts of administrative actions to ensure their legality. Administrative authorities are given powers by statutes and such powers must be exercised within the limits of the power drawn by such statutes.² It is the authority of the courts to declare void of the acts of the legislature and executive if the administrative body found in violation of the provisions of the Constitution.³ The concept of judicial review has been originated and developed by the American Supreme Court, although there is no express provision in the American Constitution for judicial review. In *Marbury v. Madison*⁴ the Supreme Court made it clear that the courts had the power of judicial review. Chief Justice Marshall said, "Certainly all those who have framed the written constitution contemplate them as forming the fundamental and paramount law of the nations, and the theory if every such Government must be that an act of the legislature, repugnant to the Constitution is void." In case of conflict between the

Constitution and the Acts passed by the legislature, the Courts follow the Constitution and declare the acts to be Unconstitutional.⁵ In review, reviewing authority does not go into the merit of the decision while in the case of appeal the appellate authority can go into the merits of the decision. Therefore, judicial review according to de Smith is "inevitably sporadic and peripheral"⁶ in judicial review, the courts undertake scrutiny of administrative action on the touchstone of the doctrine of ultra vires. The superior Supreme Court at the central level and the High Courts at the state level have the power to review administrative actions through various writs like habeas corpus, mandamus, certiorari, prohibition, and quo warranto under Article 32 and 226 of the Indian Constitution respectively. The writs which we follow in India have been borrowed from England where they have a long history of development;

consequently, they have gathered several technicalities.⁷ Indian courts usually follow the technicalities of English law. However, the constitutional provisions of the Indian Constitution are so broad in language that they indicate Indian judicial bodies are not bound to follow the technicalities of English Law of various writs. But in practice, the attitude of the Indian courts is by and large conditioned by the English approach. When we look into the historical background of doctrine of ultra vires or excess of jurisdiction, historically, England's doctrine of the ultra vires or excess of authority is the foundation of judicial review. The tribunal's attempts to extend this narrow concept to the modern problems of the administrative process have introduced certain technicalities and artificialities in the judicial review law.

Grounds Of Review Through Writs (Jurisdictional Principle)

The doctrine of ultra-vires: An analysis of judicial power centres around the question of how far the courts can go in reviewing the administrative authority's decisions or acts as distinct from those of appeal in review proceedings. To seek an answer to this question, it is important to examine the topic in the sense of the historical facts and power that influenced and shaped it; the atmosphere of values and opinions that nurtured it; the scope of circumstances in which it must operate; and the state of progress that it has achieved. The law relating to judicial review of administrative action in India was traditionally derived from common law, the prevailing aspect of which was the regulation by the ordinary court of law of restrictions over the powers of the public authorities. Therefore, the cases instituted before borough tribunals were removed from the earliest times into the king's court at Westminster.¹⁰ The superior courts used to maintain very tight control over the peace judges, who exercised a wide range of duties, including highway repairs, bridges, and other administrative matters. When, in 1888, most of the administrative powers of the peace justices

were transferred to local authorities, the courts maintained similar control over the latter. Although maintaining power over the lower courts and tribunals, the courts had a right to determine the former's proper jurisdiction and maintain it within their jurisdiction. In this review process, the concept of jurisdiction originated, otherwise known as „ultra-vires“ that marked off an area where the lower tribunals are absolute judges but are not allowed to cross the wall. The theory of jurisdiction embodies a dichotomy—those case in which, within its jurisdiction, a tribunal determines and those in which it rules outside its jurisdiction, judicial power is only applicable in the latter type.

Scope of the Doctrine

In theory, the principle of jurisdiction allows the courts merely to avoid acting more than powers, but in reality, by interfering on grounds of unreason ability, bad faith, extraneous consideration, unfairness, manifest injustice, and fair play, etc., they have increasingly entered the core of the subject matter. All those challenge heads were grouped under the ultra-vires single principle. So, in administrative law, the doctrine of ultra-vires is the basic doctrine. Control of administrative actions is considered as the foundation of judicial power. Ultravires applies to actions that are outside or beyond the control of decision-making bodies. So, in administrative law, the doctrine of ultra-vires is the basic doctrine. Control of administrative actions is considered as the foundation of judicial power. Ultra-vires applies to actions that are outside or beyond the control of decisionmaking bodies. To give an example, in *R. v. Hill University Visitors exparte*,¹⁷ Lord Brown Wilkinson has embraced the conventional ultra-vires script. When outside the authority granted, the decision-maker exercises his powers in a way that is procedurally unconstitutional or unfair to *Wednesbury*, he acts ultra-vires his powers and is therefore unlawful. The theory of ultra-vires is consistent with the principle of rule of law to some degree, thus, the definition of ultra-vires is now viewed by many as an insufficient excuse for judicial review.

Remedies of Judicial Review/ Public Interest Litigation

Here five types of writs are available for judicial review of administrative actions under Article 32, and Article 226 of the Constitution of India.

- 1) Habeas Corpus
- 2) Mandamus writ
- 3) Quo Warranto
- 4) Prohibition
- 5) Certiorari

SUGGESTIONS

When conducting research on the judicial review of administrative action concerning the violation of fundamental rights, it would be beneficial to focus on several key aspects. Firstly, you could explore the historical development of judicial review in the context of fundamental rights violations to understand how this legal mechanism has evolved over time.

Additionally, analyzing landmark cases where the judiciary has intervened to protect fundamental rights against administrative actions would provide valuable insights. Studying the reasoning behind such decisions and their impact on shaping administrative law and governance practices could be a significant aspect of your research.

Furthermore, examining comparative perspectives by looking at how different countries handle judicial review of administrative actions involving fundamental rights violations could offer a broader understanding of best practices and challenges in this area.

Lastly, delving into the role of judicial activism versus judicial restraint in cases of fundamental rights violations by administrative bodies could provide a nuanced perspective on the dynamics between the judiciary and the executive branch in upholding constitutional rights.

By exploring these avenues in your research, you can gain a comprehensive understanding of the judicial review of administrative action concerning fundamental rights violations and contribute to the existing scholarship in this vital field of law.

CONCLUSION

Judicial review of the administrative action inherent in our constitutional scheme based on the rule of law and separation of power. It is regarded as the basic feature of our Constitution, which cannot be abolished even by the exercise of parliamentary constitutive power. It's the most effective remedy against administrative excesses available. It is a positive feeling among the people that if the administration carries out any function or acts at the discretion of the power given to it, either by legislative norms or following the provisions of the Indian constitution. Unless, because of that discretionary power, it is a failure to exercise discretion or misuse of discretionary power to satisfy its gain or any private gain, the only choice before the public is to go to court under Article 32, Article 136, or Article 226 of the Indian Constitution. The main purpose of judicial regulation is to ensure compliance with the laws enacted by the government with the rule of law. Judicial regulation has certain drawbacks inherent in this. It is better suited to dispute resolution than to administrative functions. It is the executive who administers the law and the judicial system function to ensure that the government fulfils its duty following the provisions of India's constitution.

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Action, Vol. 15, No.1, (1998). Matthew, D. Zinn, Ultra vires taking, Vol.97, No.1 (Oct.1998). Holdsworth, A History of English Law, Vol. 2 (1936).

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6. S.P. Gupta v. President of India (1982), 1981 Supp (1) SCC 87
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Santosh Nanta vs State of Himachal Pradesh & Others (2023), CWPOA No. 450 of 2019