

Court Matters

(Certain Issues)

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Welfare State and its characteristics

- Increase in Regulation of Government
- Direct furnishing of services by Government
- Increasing Government Ownership
- Increasing Public Power

Challenges

- Increased interface between Government and ordinary Citizen
- Discretionary powers
- Arbitrary Application of Law

Principles of Administrative Law

- Rule of Natural Justice.
- Limitation on State Powers.
- Whether the Action is Reasonable and Non-arbitrary.

Sociological Understanding

- Why parties / people go to Court.
- Who benefits from this Judicial Review.
- What is difference between Administrative and Quasi-Judicial Power.

What are Administrative Action

- Rule making Action.
- Rule Decision Action or Quasi-Judicial Action.
- Rule Application Action or Administrative Action.
- Pure Administrative Action.

Rule Decision Action or Quasi-Judicial Action

- Disciplinary Proceedings.
- Confiscation of Goods.
- Cancellation, Suspension, Revocation or Refusal to renew license or permit.
- Refusal to grant “non objections” certificate.
- Grant of Permit by RTA

What does it involves?

- Presentation of case.
- Ascertainment of Question of Fact by means of evidence given by parties.
- This the ground upon which action is taken are left entirely to discretion of authority.

Problems?

- “Discretion” choosing from available alternative without reference to predetermined criteria – conflict between absolute discretion and reasonable exercise.
- Speaking Order.
- Application of Mind.
- Article 14 and Article 19 understanding.

Problems of Administrative Decision making

- “Number and Complexity.
(parallel bodies / divergent decision)
- Variety of Procedures.
- Unsystematic System of Appeal.
- Invisibility of Decision
- Un-predicability of decision

Contd...

- Combination of function
- Official bias.
- Bargaining for lesser changes and punishment.
- Political interface
- Off the Record consultation
- Reasoned decision

What officers should avoid?

- Action in a manner reflecting haste
- Recklessness and negligence.
- Manner unbecoming of Government servant.
- Undue favour to a party
- Corrupt motives

Thank you