

Constitutional Law and Public Administration in India

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Lecture-02

Administrative Tribunals – III

There is an area of relevance namely, statutory exception or necessity. Bias is incompetent if he is the only person competent to perform an act. If there is a natural calamity, such as an earthquake or a flood and one person is very well technically equipped to deal with the public order, and the disorder that has been happening, in response to the human cry, it is therefore an exception. In cases of contractual arrangement there is a clause in the termination of a contract, wherein there is no necessity to have a hearing from both the sides so on and so forth. In case of government policy decisions, unless they are capricious, arbitrary, illegal, uninformed, and contrary to law it cannot be challenged. Otherwise generally they are not challenged. There are certain tests to determine the tests to determine the exercise of quasi- judicial powers; quasi-judicial bodies are non-judicial entities empowered to interpret the laws. But they are empowered to interpret specific laws, not all laws. Every quasi-judicial body exists for a particular kind of law, obliged to judge facts impartially, and give solutions to back official action. Second, provide remedies to situations and impose legal penalties. Their functions lie in the borderline between executive and judicial spheres.

Judicial might not mean an act of a judge or legal committee meeting for the discovery of a matter of law. Judicial act is done generally by a competent authority for consideration of facts and situation and imposes liability when the rights of others are affected. In the case law, *Royal Aquarium Summer and Winter Garden Society, Ltd. v. Parkinson*, judicial means the discharge of duties by judges in a court of law and administrative duties to be performed in court which is important to determine what is fair and what is just.

In *Ram Jawaya Kapur v. State of Punjab*, administrative authority decides questions in a judicial manner, not judicial action in a strict sense. Quasi-judicial, for administrative powers is required to be exercised judicially according to natural justice principles. When the test to determine exercise of quasi-judicial bodies, administrative and quasi-judicial actions, administrative actions and act upon policy and expediency, dictate what is politic and expedient, not concerned with pre-existing rights and liabilities, create the rights and liabilities they enforce, and they must be fair. Also, quasi-judicial bodies in terms of

administrative discretion, judicial in terms of an objective, must be empowered by statute to decide a litigation between parties. They should satisfy the principles of natural justice.

One party may be a quasi-judicial proceeding and the other the statutory authority itself. The case law here is the *Engineering Mazdoor-Sabha v Hind Cycles, Ltd.* A quasi-judicial body or Act suggests two or more parties and an outside authority to make the decision. Presence of two rival parties is a must to hold the statutory authority as quasi-judicial body and no two rival parties' judicial procedure is required to be followed in quasi-judicial acts. There is the difference between the applicability of natural justice principles. Natural justice represents a higher procedural principle developed by judges. It's not something that's written down in a statute. Next, the purely administrative acts, acts as a natural justice principle not applicable and it is not purely alien to administrative actions. Though in *R.S. Das v Union of India*, application of natural justice principles was considered flexible: it depends upon the setting and background of statutes, survivors, affected, consequences, time of the case and the peculiar facts of the case. And the correction or violation of natural justice by purely administrative acts is beyond the court's jurisdictional capacity. In *Regina v. Dublin Corporation*, it was held that the test is the duty is to act judicially. If statute requires administrative authority to act judicially, it is an action of authority quasi-judicial.

So, the precondition for exercise of jurisdictional capacity was decided in *Province of Bombay v. Kushal Das*. Quasi-judicial obligation deduced from nature of function though the statute is silent and every act affecting rights of parties mandating conformity to natural justice principles is judicial. Every judicial act thus requires fulfilling natural justice principles, duty to act judicially inferred from cumulative effect of nature of rights affected, manner of disposal and other requirements in statute. Ultimately it does follow and work like a court, it does carry out the function of a court to uphold fairness, justice, equity, and good conscience and second, the distinctive quality is minimum legal standards of administrative requirements. This is all about the growth of administrative panels.