

SEMESTER-VIII

NAME OF SUBJECT: ADMINISTRATIVE LAW

PAPER CODE: LAW- 818

MAXIMUM MARKS: 30+70=100

TIME ALLOWED: 3 HRS.

INTERNAL ASSESSMENT: 30 MARKS

TERM-END EXAMINATION: 70 MARKS

Objective: This paper aims at making students of law aware of myriad dimensions of administrative law including quasi-legislative, quasi-judicial and other ministerial functions of administration and control thereof.

MODULE-I: Evolution, Nature and Scope

- a) Movement from Laissez-faire to a Social Welfare State.
- b) Nature, Scope and Development of Administrative Law.
- c) Doctrine of separation of powers and rule of law.
- d) Rule of Law and Administrative Law.
- e) Relationship between Constitutional Law and Administrative Law.
- f) Administrative Law vis-à-vis Privatization.
- g) Classification of functions of Administration.

MODULE-II: Legislative Functions of Administration

- a) Necessity and Constitutionality.
- b) Legislative powers of Administration.
- c) Forms and requirements.
- d) Control
 - i. Legislative.
 - ii. Judicial.
 - iii. Procedural.
- e) Sub-delegation.

MODULE-III: Judicial Functions of Administration

- a) Need for devolution of adjudicatory authority on administration.
- b) Nature of Tribunals- Constitution, Powers, Procedures, Rules of evidence.
- c) Administrative Tribunals.
- d) Principles of Natural Justice
 - i. Rule against bias and right of fair hearing.
 - ii. *Audi Alteram Partem*.
 - iii. Reasoned decisions.
- e) Rules of evidence—No evidence, Some evidence and Substantial evidence.
- f) Institutional Decisions.

MODULE-IV: Administrative Discretion

- a) Need for Administrative Discretion and its relationship with Rule of Law.
- b) Constitutional imperatives and exercise of discretion.
- c) Grounds of Judicial Review
 - i. Abuse of judicial review.
 - ii. Failure to exercise discretion.
- d) Doctrine of Legitimate expectations.

MODULE-V: Judicial Control of Administrative Action

- a) Introduction.
- b) Court as the final authority to determine the legality of administrative action.
- c) Exhaustion of Administrative remedies.
- d) Locus standi.
- e) Laches.
- f) Res judicata.
- g) Judicial review and its extent.
- h) Methods of judicial review
 - i. Statutory appeals.
 - ii. Writs.
 - iii. Declaratory judgments and injunctions.
 - iv. Civil suits for Compensation.

SUGGESTED READINGS

1. Principles of Administrative Law--- M.P. Jain and S.N. Jain.
2. Administrative Law--- I.P. Massey.
3. Administrative Law--- Wade.
4. Lectures on Administrative Law---C.K. Takwani.
5. Administrative Law--- S.P. Sathe.
6. Lectures on Administrative Law--- U.P.D. Kesari.
7. Principles of Administrative Law--- David Scott & Felix Alexandra.
8. Administrative Law Text--- K.C. Davis.
9. Comparative Administrative Law--- D.D. Basu.
10. Administrative Law--- Cann. Steven J. 3rd Ed. 2003.

ESSENTIAL CASE LAWS

1. Ram Jawaya v. State of Punjab (AIR 1955 SC 549)
2. Asif Hameed v. State of J & K (AIR 1989 SC 1899)
3. A.N. Parasoraman v. State of Tamil Nadu AIR 1990 SC 40, (Administrative discretion)
4. State of Punjab v. V.K. Khanna, AIR 2001 SC 343 (Mala fide exercise of power)
5. State of Bombay v. K.P. Krishnan AIR 1960 SC 1322 (irrelevant considerations)
6. Shrilekha Vidyarthi v. State of U.P. (AIR 1991 SC 537) (Reasonableness)

- 7. Delhi Laws Act case, AIR 1951 SC 332**
- 8. Lachmi Narain v. Union of India AIR 1976 SC 714 (Modification)**
- 9. A.V. Educational Society v. Govt. of A.P. Educational Department (AIR 2002 A.P. 348) (Judicial Control of delegated Legislation)**
- 10. M/s Atlar Cycle Industry Ltd. v. State of Haryana (Legislative Control)**
- 11. Govind Lal Chaggan Lal Patel v. The Agriculture Produce Market Committee (AIR 1976 SC 236) (Procedural Control)**
- 12. Kiran Gupta v. State of U.P. (AIR 2000 SC 3299) (Delegated Legislation)**
- 13. Indian National Congress (1) v. Institute of Social Welfare (AIR 2002 SC 2158) (Classification of Administrative Action)**
- 14. A.K. Kraipak v. Union of India (AIR 1950 SC 150)**
- 15. Hira Nath v. Rajendra Medical College (AIR 1973 SC 1260)**
- 16. Maneka Gandhi v. Union of India (AIR 1978 SC 597)**
- 17. S.N.Mukherjee v. Union of India (AIR 1990 SC1986)**

NAME OF SUBJECT: PROPERTY LAW (TRANSFER OF PROPERTY ACT AND EASEMENT ACT)

PAPER CODE: Law- 809

MAXIMUM MARKS: 30+70=100

TIME ALLOWED: 3 HRS.

INTERNAL ASSESSMENT: 30 MARKS

TERM-END EXAMINATION: 70 MARKS

Objective: Course on property law conventionally deals with the Transfer of Property Act 1882. Since then fundamental changes have taken place in the field of property laws due to changed social circumstances. The irony is that old rules enacted by colonial masters such as rule against perpetuities find a place and post-Independence developments such as control and use of agricultural land don't find a place. In the matter of leases of immovable property this law is virtually outdated. Keeping these deficiencies in mind this course outline attempts at overcoming these deficiencies and imbalances.

MODULE-I: Jurisprudential contours of Property and Principles relating to Transfer of Property

- a) Concept and Meaning of Property.**
 - i. New property and Kinds of Property.**
 - ii. Distinction between movable and immovable property.**
 - iii. Tangible and Intangible Property- Intellectual Property.**
 - iv. Transferability of Property.**
 - v. Compartment Transfer.**
 - vi. Conditions restricting transfer.**
 - vii. Definition of Transfer of Property.**
 - viii. Transfer and non-transfer property.**
 - ix. Transfer to an unborn person and the rule against perpetuity.**
 - x. Vested and Contingent interest.**

xi. Rule of Election.

MODULE-II: General Principles Governing Transfer of Immovable Property.

- a) Transfer by Ostensible owner.
- b) Rule of feeding grant by *estopple*.
- c) Rule of *Lis pendens*.
- d) Fraudulent Transfer.
- e) Rule of Part performance.

MODULE-III: Specific Transfer-I

- a) Sale and Gift.
- b) Leases (Secs. 105-117).
- c) Exchange.
- d) Charges.

MODULE-IV: Specific Transfer-II

- a) Mortgages of Immovable Property (Secs. 58-77)- Kinds of Mortgages.
- b) Rights and Liabilities of the Mortgator and Mortgagee.
- c) Marshalling and Contribution (Secs. 81-82); Redemption (Secs. 91-96).
- d) Registration of Document & Law of Registration.

MODULE-IV: The Easement Act

- a) Creation of Easement (Secs. 4-7).
- b) Nature and Characteristics.
- c) Extinction, Suspension and Revival of Easements (Secs. 37-51); Reparion Rights.
- d) Licences.

SUGGESTED READINGS

1. Transfer of Property--- D.F. Mulla.
2. Transfer of Property Act--- H.N. Tiwari.
3. Transfer of Property Act--- S.M Shah.
4. Lectures on Indian Easement Act--- Tripathi.
5. Indian Easement Act--- J.D. Jain.
6. Transfer of property--- T.P. Tripathi

ESSENTIAL LAWS

Specific Transfers - Sale, Mortgages, Gift, Lease -

1. **Bai Dosabai v. Mathurdas Govinddas, AIR 1980 SUPREME COURT 1334**
2. **Videocon Properties Ltd., v. Bhalchandra Laboratories, AIR 2004 SUPREME COURT 1787**
3. **Krishna Pillai Rajasekharan Nair v. Padmanabha Pillai, Air 2004 SUPREME COURT 1206**
4. **Mangal Prasad Tamili v. Narvedshwar Mishra, AIR 2005 SUPREME COURT 1964**
5. **State of U.P. v. Lalji Tandon, AIR 2004 SUPREME COURT 32**
6. **Chandy Varghese and Others v. K. Abdul Khader and Others, 2003 (11) SCC 328**
7. **Ranghuram Rao v. Eric P. Mathias, AIR 2002 SUPREME COURT 797**
8. **T. Lakshmipathi v. P. Nithyananda Reddy, AIR 2003 SUPREME COURT 2427**
9. **Shanti Prasad Devi v. Shankar Mahto, AIR 2005 SUPREME COURT 2905**
10. **Asokan v. Lakshmikutty and Others, 2007 INDLAW SC 1340**
11. **Renu Devi v. Mahendra Singh, AIR 2003 SUPREME COURT 1608**

CASE LAW (BY WAY OF ILLUSTRATION) -

1. **Amrit Lal Goverdhan Lal v. State Bank of Travancore AIR 1968 SC 1432**
2. **Morvi Mercantile Bank v. Union of India AIR 1965 SC 1954**
3. **Vasireddi Seetha Ramaiah v. Srirama Motor Finance Corporation 1977 AP 164**
4. **Wheels India Ltd., Mount Road v. Khem Chand Raj Kumar 1970 MLJ 648**
5. **Maganbhai v. Union of India AIR 1969 SC 785 Madhav dRao v. Union of India Air 1971 Sc 530**
6. **Dehli Science Forum & Others v. Union of India JT 1996 (2) SC 295**
7. **Canara Bank v. Canara Sales Corporation & Others AIR 1987 Sc 1603**
8. **India Airlines Corporation v. Madhuri Choudhury Air 1965 Cal 252**

9. **Gatewhite Ltd. & Another v. Iberia Lineas de Espana SA (1989) 1 All E.R. 944**

NAME OF SUBJECT: INTELLECTUAL PROPERTY LAW

PAPER CODE: Law- 827
MAXIMUM MARKS: 30+70=100
TIME ALLOWED: 3 HRS.

INTERNAL ASSESSMENT: 30 MARKS
TERM-END EXAMINATION: 70 MARKS

Objective: The paper intends to provide comprehensive knowledge to the students about Indian position of the Patent Law, 1970; Copy Right Law, 1957 and Design Act, 2000.

MODULE-I: Introduction

- a) **Origin and Development of Intellectual Property.**
- b) **Concept of Corporeal and Incorporeal Property.**
- c) **Meaning and Concept of Copyrights, Trademarks, Geographical Indications, Industrial Designs, Patents and Plant Varieties.**

MODULE-II: Copyrights

- a) **Nature and Meaning.**
- b) **Registration of Copyright under Indian Law.**
- c) **Rights conferred by Copyright.**
- d) **Infringement of Copyright.**

- e) **Scope of Protection.**
- f) **Procedure for Protection.**
- g) **Enforcement and remedies.**

MODULE-III: Trademarks

- a) **Nature and Meaning.**
- b) **Registration of Trademarks.**
- c) **Difference between infringement of Trademark and passing off.**
- d) **Scope of Protection.**
- e) **Procedure for protection.**
- f) **Enforcement and remedies.**

MODULE-IV: Industrial Design

- a) **Nature and Meaning.**
- b) **Registration of Designs.**
- c) **Infringement in Industrial Designs under Indian Design Act, 2000.**
- d) **Scope of Protection.**
- e) **Procedure for Protection.**
- f) **Enforcement and Remedies.**

MODULE-V: Patents

- a) **Nature and Meaning.**
- b) **Patentable and Non-patentable Invention.**
- c) **Process of obtaining a patent.**
- d) **Licenses of Right and Revocation of Patent.**
- e) **Duration of Patent Grant.**
- f) **Infringement.**
- g) **Scope of Protection.**
- h) **Procedure for Protection.**
- i) **Enforcement and Remedies.**

MODULE-VI: Geographical Indications

- a) **Procedure for Registration.**
- b) **Infringement of Geographical Indications and Assignment.**

MODULE-VII: Protection of Plant Varieties and Farmers' Right

- a) **Persons who can apply for registration.**
- b) **Requisites for Registration.**
- c) **Farmer Rights.**
- d) **Compulsory Licensing.**

MODULE-VIII: International Protection

- a) **Important Provision relating to Protection of Copyrights under Berne Convention, 1886.**
- b) **Trademark under Madrid Agreement, 1891.**
- c) **Patents under Patent Cooperation Treaty, 1970.**
- d) **Protection of Industrial Design under the Hague System, 1925 and Protection of New Varieties of Plants under UPOV Convention, 1961.**
- e) **Aims and objectives of TRIPS Agreement.**

RECOMMENDED READINGS

1. **P. Narayana--- Intellectual Property Law.**
2. **W.R. Cornish--- Intellectual Property Law.**
3. **N.S. Gopal Krishna--- Cases and Material on IPL.**
4. **P. Narayanan--- Intellectual Property Law. Eastern Law House.**
5. **T.R. Srinivas--- The Copyright Act, 1957.**
6. **Meenu Paul--- Intellectual Property Law.**
7. **M.K. Bhandari--- Law Relating to Intellectual Property Rights. Central Law Publications.**
8. **Paris Convention for the Protection of Industrial Property, 1883.**
9. **Berne Convention for the Protection of Literary and Artistic Works, 1886.**
10. **Indian Copyright Act, 1957.**
11. **Indian Patents Act, 1970.**
12. **Agreement on Trade-Related Aspects of Intellectual Property Rights, 1994 (the TRIPS Agreement).**
13. **Indian Trademarks Act, 1999.**
14. **Indian Designs Act, 2000.**

References:

1. **Cornish, W. R., Intellectual Property (London: Sweet & Maxwell, 1996);**
2. **Correa, Carlos M., Intellectual Property Rights, the WTO and Developing Countries: The TRIPS Agreement and Policy Options (Penang: Third World Network, 2000);**
3. **Pratap, Ravindra, India at the WTO Dispute Settlement System (New Delhi: Manak, 2004), Chapters 4 and 5.**
4. **Adelman, Martin J. and Baldia, Sonia, "Prospect and Limits of the Provision in the TRIPS Agreement: The Case of India", Vanderbilt Journal of Transnational Law, vol. 29, no. 3 (1996), 507.**
5. **Beier, Friedrich-Karl and Schricker, Gerhard, eds., From GATT to TRIPS—The Agreement on Trade-Related Aspects of Intellectual Property Rights (Weinheim: VCH, 1996).**
6. **Bronkers, Marco C. E. J., "The Impact of TRIPS: Intellectual Property Protection in**

- Developing Countries”, *Common Market Law Review*, vol. 31, (1994), 1245.
7. C. Wadlow, *Enforcement of Intellectual Property in European and International Law* (London: Sweet & Maxwell), 1998).
 8. Canada – Patent Protection of Pharmaceutical Products, Report of WTO Panel, WT/DS114/R, adopted 7 April 2000.
 9. Chimni, B. S., “The philosophy of patents: Strong regime unjustified”, *Journal of Scientific & Industrial Research*, vol. 52 (1993), 234.
 10. Chisum, Donald A, *Principles of Patent law* (New York: Foundation Press, 2001).
 11. Damodaran, “EMR for Glivec: A TRIPS-dictated ‘Cure’?”, *Financial Express*, Jan. 9, 2004, I.
 12. David Lange, Mary La France and Gary Mayers, *Intellectual Property: Cases and Materials* (St. Paul: West Group, 1998).
 13. Dhar et al., *Regime of Intellectual Property Protection for Biodiversity: A Developing Country Perspective* (N. Delhi: RIS, 2001);
 14. Dhavan, Rajeev, Harris, Lindsay and Jain, Gopal, “Conquest by Patent: The Paris Convention Revisited”, 32 *Journal of Indian Law Institute* (1990), 131.
 15. *Diamond v. Chakrabarty*, Supreme Court of the United States, 1980. 447 U.S. 303, 100 S. Ct. 2204, 65 L. Ed. 144, 206 USPQ 193.
 16. Duffield, G., *Intellectual Property Rights and the Life Science Industries* (London: Ashgate, 2002). (With effect from the Academic Session 2008-2009) 83
 17. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co. Ltd., et al.*, Supreme Court of the United States, May 28, 2002.
 18. Gana, “Has Creativity Died in the Third World? Some Implications of the Internationalization of Intellectual Property”, 24 *Denver J of Int. L. & Policy* (1995), 109;
 19. Gervais, Daniel, *The TRIPS Agreement: Drafting History and Analysis* (London: Kluwer, 1998).
 20. *Griffith v. Kanamaru*, US Court of Appeal for the Federal Circuit, 1987, 816 F. 2d 624.
 21. Henderson, Elizabeth, “TRIPs and the Third World: The Example of Pharmaceutical Patents in India”, *European Intellectual Property Review*, vol. 19, no. 11, (1997), 651.
 22. Jayagovind, A., “The International Patent System and Developing Countries”, *Indian Journal of International Law (IJIL)*, vol. 20, no. 1 (1980), 47;
 23. Juma, C., “Intellectual Property Rights and Globalization: Implications for Developing Countries”, *Science, Technology and Innovation, Discussion Paper no. 4*, Center for Int. Dev., Harvard Univ., (1999);
 24. Maggs, P. B., et al., *Internet and Computer Law: Cases, Comments and Questions* (St.

Paul, Minn.: West Group, 2001).

25. Menon, Usha, “The Convention on Biodiversity, Intellectual Property Rights and Policy Options”, *Social Action*, vol. 40, no. 2 (1992), 120.

26. Mishra, “Biodiversity, Biotechnology and Intellectual Property Rights: Implications for Indian Agriculture”, *3 Journal of World Intellectual Property* (2000), 211;

27. Nair and Kumar, eds., *Intellectual Property Rights* (N. Delhi: Allied, 1994);

28. Narayanan, P., *Patent Law* (Kolkata: Eastern Law House, 1998);

29. Patel, Surendra J., “Intellectual Property Rights in the Uruguay Round: A Disaster for the South”, *EPW*, May 6 (1989), 978;

30. Ravishankar A. and Sunil Archak, “Intellectual Property Rights and Agricultural Technology: Interplay and Implications for India”, *35 EPW* (2000), 2446.

31. Robert A. Gorman and Jane C. Ginsburg, *Copyright: Cases and Materials* (New York: Foundation Press, 2002).

32. Sahai, “TRIPS Review: Basic Rights Must be Restored”, *36 Economic and Political Weekly (EPW)* (2001), 2918;

33. Saxena, R. B., “Trade-Related Issues of Intellectual Property Rights and the Indian Patents Act—A Negotiating Strategy”, *World Competition*, vol. 12, no. 2 (1988), 81; (With effect from the Academic Session 2008-2009) 84

34. Stewart, S.M., *International Copyright and Neighbouring Rights* (London: Butterworths, 1983);

35. Twinomukunzi, Charles, “The International Patent System—A Third World Perspective”, *Indian Journal of International Law*, vol. 22 (1982), 31;

36. United States – Section 110(5) of the US Copyright Act, Report of WTO Panel, WT/DS160/R, adopted 27 July 2000.

37. Watal, *Intellectual Property Rights in the WTO and Developing Countries* (Delhi: OUP, 2001);

38. Zutschi, “Bringing TRIPS into the Multilateral Trading System”, in Bhagwati and Hirsch, eds., *The Uruguay Round and Beyond: Essays in Honour of Arthur Dunkel* (Heidelberg: Springer, 1998), 37.

NAME OF SUBJECT: ALTERNATE DISPUTE RESOLUTION

PAPER CODE: Law- 821

MAXIMUM MARKS: 30+70=100

TIME ALLOWED: 3 HRS.

INTERNAL ASSESSMENT: 30 MARKS

TERM-END EXAMINATION: 70 MARKS

Objective: The major concern of law is conflict resolution. Familiarization with the modalities and techniques of resolution of conflict is a necessary component in the endeavours of developing expertise in juridical exercise. The traditional justice delivery

system through adjudication by courts had already given way to a large extent to many an alternative mode of dispute resolution in the common law countries. The advent of globalization has enthused this transformation everywhere. The study of ADR is highly significant in moulding the students of law to act as soldiers of justice in the ever-changing socio-economic scenario. The course aims to give the students an insight into the processes of arbitration, conciliation and mediation in areas where the traditional judicial system had its sway in the past and in the new areas of conflicts that demand resolution by alternative methods. No doubt, the course has to be taught with comparative and international perspectives with a view to bringing out the essential awareness of the national and international systems emerging at the present context.

MODULE-I: Arbitration: Meaning, Scope and Types

- a) **Alternate Dispute Resolution—Concept and Need.**
- b) **Distinctions.**
- c) **1940 Law and 1996 Law: UNCITRAL model law.**
- d) **Arbitration and Conciliation.**
- e) **Arbitration and Expert Determination.**
- f) **Extent of Judicial Intervention.**
- g) **International Commercial Arbitration**

MODULE-II: Arbitration Agreement

- a) **Essentials.**
- b) **Kinds.**
- c) **Who can enter into arbitration agreement.**
- d) **Validity.**
- e) **Reference to Arbitration.**
- f) **Interim Measures by Court.**

MODULE-III: Arbitration Tribunal

- a) **Appointment.**
- b) **Challenges.**
- c) **Jurisdiction of Arbitral Tribunal.**
- d) **Powers.**
- e) **Grounds to Challenge.**
- f) **Procedure.**
- g) **Court Assistance.**
- h) **Arbitration: Arbitration agreement / Applicable Law; IIC, UNCITRAL, KSID.**
- i) **The Arbitration and Conciliation Act, 1996.**

MODULE-IV: Award

- a) **Rules of Guidance.**
- b) **Form and Content.**

- c) Correction and Interpretation.
- d) Grounds of setting aside an award.
- e) Can misconduct be a ground?
- f) Incapacity of a party, invalidity of arbitration agreement.
- g) Want of proper notice and hearing.
- h) Beyond the scope of reference.
- i) Contravention of composition and procedure.
- j) Breach of confidentiality.
- k) Impartiality of the arbitrator.
- l) Bar of limitation, *Res judicata*.
- m) Consent of parties.
- n) Enforcement.

MODULE-V: Appeal and Revision.

MODULE-VI: Enforcement of Foreign Awards

- a) New York Convention Awards.
- b) Geneva Convention Award.

MODULE-VII: Conciliation

- a) Distinction between ‘Conciliation’, ‘Negotiation’, ‘mediation’ and ‘arbitration’.
- b) Appointment.
- c) Statements to Conciliator.
- d) Interaction between conciliator and parties.
- e) Communication.
- f) Duty to the parties to Co-operate.
- g) Suggestions by parties.
- h) Confidentiality.
- i) Resort to Judicial Proceedings.
- j) Costs.

MODULE-VIII: Rule-Making Power

- a) High Court.
- b) Central Government.

MODULE-IX: Legal Services Authorities Act.

SUGGESTED READINGS

1. International Dispute Settlement--- J.G. Merrills.
2. Legal Services Authority Act, 1987.

3. **Law of Arbitration and Conciliation---** B.P. Saraf and M. Jhunjhunwala. Snow White, Mumbai, 2000.
4. **The New Arbitration and Conciliation Law of India---** Gerald R. Williams (ed.). Indian Council of Arbitration. 1998, New Delhi.
5. **Law of International Commercial Arbitration---** A.K. Bansal. 1998. Universal, New Delhi.
6. **Alternative Dispute Resolution-What it is and How it works?---** P.C. Rao & William Sheffield. Universal, Delhi, 1997.
7. **The Arbitration and Conciliation Law of India---** G.K. Kwartar. Universal, Delhi.
8. **Commentary on Arbitration and Conciliation Act, 1996---** Johari. Universal, Delhi. 1999.
9. **Law and Arbitration and Conciliation---** N.D. Basu. Universal, Delhi. 9th Edition, reprint 2000.
10. **Law Relation to Arbitration and Conciliation---** P.C. Markanda. Universal, Delhi. 1998.

(This course requires to be conducted by senior legal practitioners through simulation and case studies. Evaluation may also be conducted in practical exercises at least a significant part of the evaluation)