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Analysis on Due Process of Law under Administrative Law in India

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ABSTRACT

A basic legal concept that assures impartiality and equity in court proceedings is the notion of due process. When robbing someone of their life, liberty, or property, the government must abide by established processes and regulations, which are incorporated in the 5th and 14th Amendments of such United States Constitution. Individuals are guaranteed notice of the allegations against them, a chance to be addressed, as well as a fair and unbiased decision-maker through the use of due process. The theory of due process as it now exists under American law, alongside its relevance and effects on society, will all be discussed in this essay. The notion of due process, which assures impartiality and equity in administrative processes, is a foundational element of administrative law in India. When denying people their rights, privileges, or property, the government must adhere to established processes and rules, as stated in Article 14 of the Indian Constitution. Individuals are guaranteed notice of the allegations against them, a chance to be represented, and just a fair and unbiased decision-maker through the use of due process. The theory of due process under Indian administrative law will be examined in this essay along with its history, contemporary application, relevance, and social effects. It will also look at recent judicial rulings that have reinforced and broadened the safeguards provided by due process laws in administrative hearings. The rights and obligations of people and organisations in dealing with government entities are discussed in this essay. A just and open system of governance must be ensured. It helps ensuring government agencies adhere to proper processes and legal requirements and guards against citizens getting taken advantage of by the state. It covers the significance of due process, its historical development, India's shift from legally prescribed procedure to due process of law, the consequences of due process under administrative law, and other due process-related constitutional clauses and court rulings.

Keywords: Administrative Law, Due Process of Law.

I. INTRODUCTION

"No individual shall be stripped of his life or his private freedom unless in accordance with the

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method established by law," states Article 21 of the Indian Constitution.

A crucial legal theory that aims to promote impartiality and equity in administrative decision-making throughout India is the concept of due process within administrative law. It has become a key idea in India's legal and constitutional framework since it aims to stop administrative authorities from making judgements that are arbitrary or biased. With the expansion of administrative state as well as the development of administrative organizations and agencies in India over the past several decades, administrative law has advanced quickly. Due process is a notion that has grown in significance as a result because it offers a framework for guaranteeing that administrative decisions are just, reasonable, and fair. Although it has its origins in the common law framework, India's doctrine of due process has changed to reflect the country's distinct legal and constitutional environment. The philosophy is based on the idea of natural justice, that stipulates that judgements in administrative matters must be made in line with fair procedures and by impartial parties.²

Administrative law requires agencies to give procedural protections including notice and an opportunity for a hearing before reaching a judgement. This guarantees that agencies obey due process of law. This concept assures that the government does not behave arbitrarily or oppressively when making choices that impact citizens' rights. Administrative judgements must be supported by facts as well as evidence, and the process of reaching such conclusions must be open and fair. Moreover, administrative judgements must abide by the law and also any relevant rules. Due process also mandates that people have notice of the proceedings, a chance to be heard, as well as a chance to challenge the outcome. A basic right that is protected by Articles 14 and 21 of the Indian Constitution is the right to a fair trial. This covers substantive rights like the principle under due process of law as well as procedural rights like the right to a fair trial.

In a number of instances addressing legal right to a fair trial, the right to be represented, and the right to know the reasons behind a judgement, the Indian judiciary has acknowledged and applied the principle of due process. The Ideology of Due Process throughout India, however, also faces difficulties and constraints, such as ambiguity in its implementation, a lack of explicit legislative measures, and a constrained extent of judicial review. The idea and development of the Ideology of Due Process within Administrative Law in India will be explored in this study, along with its legal and historical evolution, present application, and limits. With the help of this study, we want to further knowledge of this crucial legal precept and the role it plays in

² "Mr A.H. Hawaldar, Evolution of Due Process in India - Manupatra (2014)

advancing administrative equity and fairness in India.

II. ORIGIN AND EVOLUTION OF DUE PROCESS OF LAW

The English common law framework, which India inherited during the colonial era, is where the Theory of Due Process got its start. The Magna Carta of 1215 guaranteed the freedom from intimidation and shielded people's rights against capricious and repressive government action, which is where the idea of due process of law first appeared. By constitutional decisions of the Indian Constitution, the notion that due process of law has already been acknowledged and developed in India. The word "due process of law" is not specifically included in the Indian Constitution; alternatively, Part III of the Constitution guarantees preservation for fundamental freedoms and rights. The phrase "due process of law" has been construed broadly and expansively by the Supreme Court of India, taking into account the concepts of natural justice, impartiality, rationality, and procedural protections in administrative decision-making. The right to a fair trial and the prohibition against prejudice are two examples of natural justice concepts that the Supreme Court has ruled are crucial elements of India's due process of law.

The Supreme Court ruled in "**A.K. Kraipak v. Union of India (1969)**"³ that the concepts of natural justice were an essential component of the rule of law and indeed the constitutional framework, which marked the beginning of the theory of due process in India. The Court also declared that any administrative decisions affecting people' rights and interests were under the purview of natural justice principles. The Theory of Due Process throughout India has been improved and evolved via subsequent Supreme Court rulings. For instance, the Supreme Court ruled in *Maneka Gandhi v. Union of India (1978)* that the right to a fair hearing is a basic right guaranteed by the Constitution and that natural justice standards must be upheld even when the legislation does not clearly mandate them. In India, the doctrine of due process has developed as a way to guarantee justice, fairness, and fairness in administrative decision-making. Its growth has been fuelled by the need to safeguard individual liberties and rights against arbitrary and coercive state intervention as well as to advance India's culture of openness, accountability, including effective governance.

(A) Evolution form Procedure Established by Law to Due Process of Law

"No individual shall be stripped of his life or his private freedom unless in accordance with the method established by law," states Article 21 of the Indian Constitution. here the architects of the constitution chose the phrase mechanism prescribed by law rather than the proper legal

³ A.K. Kraipak v. Union of India (AIR 1970 SC A)

procedure as a result of the inspiration of B.N. Rau. The Indian Constituent Assembly, which was in charge of creating the Indian Constitution, had B.N. Rau as its constitutional adviser. Judge Frankfurter counselled B.N. Rau to avoid the due process provision in the Indian Constitution since this placed a "undue burden" on the court when he visited the United States. Article 21's wording states that no one may be deprived of their life or freedom of choice except in accordance with the legal process, indicating that this is not an absolute basic right and that only the legal process may be used to take away someone's life or individual freedoms. The phrase "process established by law" in this context refers to the requirement that the appropriate entity follow the correct method in order for the legislation to be legitimate and properly adopted by the legislature. The meaning of Article 21 was altered by a number of significant cases.

(B) A.K. Gopalan vs The State of Madras 1950 AIR 2710⁴

The opposition politician to the administration was A.K. Gopalan. Since December 1947, he has been wrongfully detained multiple times, and even when the court appointed his release, the government has kept him in detention. In 1950, he was sent behind bars once more under the Preventive Detention Regulation. The Preventive Detention Regulation of 1950 was then challenged by A.K. Gopalan in a writ petition submitted in compliance with Article 32 of such Indian Constitution. The Preventive Detention Regulation of 1950 stipulates that the detainee must be kept in the dark about why he is being held. Since it violates his basic rights within Articles 19(1)(d), which deals with the freedom of movement, as well as 21, which deals with the freedom of speech and reproductive liberty, A.K. Gopalan claimed that this legislation is unconstitutional.

The Preventive Detention Regulation of 1950's alleged violations of Articles 19 and 21 of such Indian Constitution, in addition to whether Article 21's "method established by law" constitutes due process of law, were the main points of contention. The Preventive Detention Regulation of 1950 was upheld as legal by the Hon. Supreme Court, which also ruled that it did not infringe Article 19(1)(d) or Article 21 of said Indian Constitution, which guarantee people's basic rights. The petition brought up by A.K. Gopalan was denied. According to the Supreme Court's decision in Gopalan, the phrase "process imposed by law in Article 21 only referred to the procedure that had been passed by the Legislature. So, it is possible to take away someone's "existence" or "individual freedoms" in line with the legal process. Here, the US Supreme Court ruled that the phrases "Procedure Established by Law" and "Due Process of Law" might be

⁴ A.K. GOPALAN VS THE STATE OF MADRAS, 1950 AIR 27.

used interchangeably.

III. ADMINISTRATION OF DUE PROCESS OF LAW⁵

Due process must be adhered to in order to secure the protection of these rights, which are guaranteed by the Indian Constitution¹². According to the principles of due process, the government must only make decisions after giving all parties involved a reasonable and impartial opportunity to be heard. This covers the privilege of being heard, including right to challenge a ruling, as well as the right to counsel. The judgement must also be substantiated by evidence and be acceptable, fair, and just. The natural justice principles that must be followed while making certain administrative judgements have been established by the Indian Supreme Court. These values include the ones that say nobody ought to assess their own case and nobody ought to be sentenced without a trial. Also, every government action must adhere to the standards of justice, rationality, and proportionality. To preserve the rule of law, decisions must be grounded on legal requirements and must not be capricious or prejudiced. Judicial review should be used to ensure that administrative authorities make judgements that are reasonable, equitable, and consistent with the law.

Difficulties faced to enforce due process in administration.

1. A lack of political will

Lack of political will has been one of the main obstacles to the appropriate application of due process in India. When elected leaders fail to put policies into place or take action on matters that are crucial to the public, it is said that they lack enough political will. When elected leaders decide not to address important policy issues because they are concerned about their political prospects or because there is no pressing need, this is evident.

2. Deficient Infrastructure

India's administrative framework is poor and insufficient, and a sizable portion of its civil servants are overworked and underpaid. Due process and the rule of law are currently being ineffectively implemented by the bureaucracy as a result of this.

3. Lack of Popular Awareness

Owing to a lack of common disclosure, due process is not utilized as consistently as it could. It's possible that people are unaware of legal privileges or the safeguards provided by due process. They cannot dispute administrative decisions that violate the laws of due process if

⁵ Strauss, P. and Wex Definitions Team (2022)

they are unaware of their rights. Individuals may not have the resources to navigate the complex legal system even though they're aware.

4. An overworked judiciary:

It is impossible to ensure that every dispute is heard and decided promptly when the legal system is overburdened. When this occurs, the rule of law is broken, which slows the administration of justice. This might prevent individuals from obtaining the justice they are due, which would have serious consequences. To ensure that the legal system is respected, the administration needs to reduce the backlog of cases and support the courts.

5. A systemic administrative burden:

Due to the overwhelming volume of cases and the intricate nature of the legal problems involved, the administrative process in administrative law is sometimes overburdened. As a result, administrative processes could drag on and parties might not have adequate counsel. Also, a lack of staff and resources might result in decisions that aren't always throughout the best interests of the people involved because of inexperience. If there is not enough money, inadequate personnel training might further impede the proper administration of administrative operations. Last but again not least, a shortage of staff may cause case processing backlogs, which would cause administrative processes to drag out longer than necessary.

6. Accountability Issues

When companies are not held responsible for their choices and behavior, people's power to contest decisions is undermined. Outcomes may be arbitrary, arbitrary, or unjust as a result of people not receiving the statutory due process to which they are supposed. Also, if agencies are not held responsible, they may not be motivated to make sure that judgements are made in conformity with the law, which might lead to judgments that don't serve the public's best interests.

If administrative officials violate due process, there are remedies available.

1. Making a formal legal appeal:

In India, a decision made by an administrative tribunal may be challenged before the higher judiciary. The appeal may be heard by the High Court or by the Supreme Court of India. In some situations, the Supreme Court may require a special leave petition. A lawyer should be sought for advice on how to file an application with the higher judiciary.

2. A grievance filed with the Ombudsman:

The Ombudsman is qualified to investigate claims that administrative agencies broke the law.

With the purpose of examining and resolving public complaints about subpar governmental administration, the Ombudsman was established. The Ombudsman is competent to provide the appropriate authorities with recommendations for corrective action. The Ombudsman is known as the Lokpal and perhaps even Lokayukta in India.

3. Constitutional Redress:

Also available are writs of mandamus, certiorari, quo warranto, prohibition, and habeas corpus, among other constitutional remedies.

- i. Writ of Habeas Corpus
- ii. A writ of mandamus
- iii. A writ of certiorari
- iv. writ of quo warranto
- v. Writ of prohibition

IV. CONCLUSION

To conclude, the doctrine for due process under Indian administrative law is crucial in ensuring that administrative bodies make decisions that are fair and just. The idea is founded on natural justice principles, which demand that each individual be given a fair chance to state their case as well as the judgement be impartial but also unbiased. The Indian judiciary has taken the initiative in applying and interpreting the concept, broadening its application, and ensuring that it covers fairness of the process, substantive impartiality, and reasonableness in addition to formal legal procedures. Although the theory has drawn some condemnation for being overly broad and ambiguous, its significance for safeguarding individuals' rights and making sure administrative officials are held accountable cannot be emphasised. In general, the Doctrine for Due Process is a crucial component of India's administrative law system, which tries to strike a balance between the rights of its residents and the state's authority. Even though this aspect of the Indian legal system is developing, more work has to be done to ensure that everyone may receive a fair trial when dealing with the government. In the long term, it is expected that administrative law will be implemented more successfully.

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