Preface

My interest to carry out the present research work grew from a deep sense of encouragement provided to me by my supervisors Prof. (Dr.) J. K. Chauhan and Dr. Devinder Singh, Associate Professor, Department of Laws, Panjab University, Chandigarh. I owe my sincere gratitude to them as without their inspiration and supervision this work could not have been successfully completed.

The present research is based on case studies to review the administrative actions with a view to provide a fundamental safeguard against the abuse of power and to see that the functioning of the various ‘agencies and instrumentalities of the state’ should demonstrate a clear commitment to fairness, impartiality and proportionality while maintaining effective checks against arbitrariness and discrimination. For this emphasis has been done for discretionary powers granted to administrative authorities because no government can perform its functions without grant of discretionary power to administrative authorities. For this the officials should be given some choice in the matter of deciding administrative matters. But that should be controlled powers because if complete freedom of action is given to the administration it would lead to the exercise of powers in an arbitrary manner seriously threatening individual liberty. It is therefore necessary to control discretionary powers to restrain it from turning into unrestricted absolutism.

In the present era, administrative law proves to be very beneficial to public at large. The main purpose of administrative law is to provide cheap and speedy justice to the litigants against misuse of power by administrative authorities. For this administrative tribunal play a very effective role to provide fair justice to the individuals. Alternative disputes resolution in the way of mediation, negotiation and conciliation is another methods to resolve the administrative disputes by amicable means. It is based on principle of natural justice and it is flexible in nature.

Judicial review is a great weapon in the hand of judges to check the actions of administrative authorities and to prevent injustice to citizens. It is based on the rule of law which is basic structure of the Indian Constitution which cannot be damaged or destroyed even in the amending power of Article 368 of the constitution. But in the present scenario, as
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As a result of globalization and liberalization, there is an increasing trend towards privatization in India which necessarily results in a shrinking of the role of the State and power of judicial review. To maintain the supremacy of judicial review, it is necessary for the State to act as a supervisory role in private sector and functions of a modern state may broadly placed into five categories, viz., the State as protector, provider, entrepreneur, economic controller and arbiter.

In the area of judicial review of administrative action, judicial review is generally permissible only in cases of illegality, irrationality, unreasonableness and procedural impropriety. But in cases where fundamental rights are affected the principle of proportionality which contemplates a stricter test of reasonableness is applied.

The remedy in the form of institution of Lokpal is another step for the purpose of safeguarding citizens against abuse or misuse of administrative power by the executive. It is hoped that in times to come Lokpal/ Lokayuka would emerge as a powerful and effective institution to provide a healthy check against abuse of discretionary authority and corruption in public life.

Central Vigilance Commission as an integrity institution was also set up by the Government of India with the purpose of checking corruption amongst Government servants. Its main concern is with matters of corruption, misconduct, lack of integrity or other kinds of malpractices or misdemeanors on the part of Government servants. In significant case the Supreme Court had directed the Central government to confer statutory status to Central Vigilance Commission, which was hitherto an advisory body, and also made it responsible for effective supervision of the functioning of CBI.

The enactment of Right to Information Act, 2005 is also significant development in the field of Administrative Law which will promote transparency and accountability in the working of public authority.

It is hoped that this research study will be helpful to judicial authorities, administrative authorities, students of administrative law and researcher working in this area.

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