

ADMINISTRATIVE LAW

UNIT – IV
Administrative Discretion
Judicial Review & Writs

Discretion • Grounds of Review • Writs • State Liability • Estoppel

UNIT-IV Full Coverage

1. Meaning of Discretion

2. Grant of Discretion

3. Exercise of Discretion

4. Grounds of Judicial Review

5. Illegality

6. Irrationality / Wednesbury

7. Procedural Impropriety

8. Proportionality

9. Legitimate Expectation

10. Promissory Estoppel

11. Public vs Private Law Remedies

12. Writs – Overview

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14. Mandamus

15. Certiorari & Prohibition

16. Quo Warranto

17. Ouster Clauses

18. State Liability – Contract & Tort

19. Constitutional Tort

20. Key Takeaways

Meaning and Necessity

Discretion means the power to choose between two or more courses of action. Absolute discretion is rare; in a system governed by rule of law, discretion must be exercised within legal limits and for the purpose for which it is conferred.

Necessity

Administration cannot function with rigid rules for every situation.

Limits

Must be exercised in good faith, for proper purpose, on relevant considerations.

No Absolute Discretion

Padfield, Roncarelli – discretion is never unfettered.

Art. 14

Arbitrary exercise of discretion violates equality.

Classic Triad + Expansion

Illegality

Authority misunderstands law, acts beyond power, fails to take account of relevant factors, takes account of irrelevant factors.

Irrationality

Wednesbury unreasonableness – so unreasonable that no reasonable authority could ever have come to it.

Procedural Impropriety

Breach of natural justice or statutory procedure.

Proportionality

Especially in fundamental rights cases – measure must be suitable, necessary and balanced.

Legitimate Expectation

Procedural or substantive expectation arising from promise or regular practice.

Mala Fide

Bad faith, improper motive – difficult to prove but available.

Modern Grounds

Proportionality

Origin in European law. In India applied mainly in Art. 19 / 21 cases. Three-step: suitability, necessity, balancing.

Vs Wednesbury

Proportionality is more intensive review; Wednesbury is restrained.

Legitimate Expectation

Arises from express promise or consistent past practice. Can be procedural (hearing) or substantive (benefit).

Limits

Expectation must be legitimate; can be overridden by public interest change of policy.

Indian Cases

Food Corporation, National Buildings Construction, Punjab Communications – key authorities.

Exam Tip

Always mention both classical grounds and the modern expansion.

Equity against the Government

Promissory estoppel prevents the Government from going back on a clear promise made by it which was intended to be acted upon and was in fact acted upon by the promisee to his detriment. It is an equitable doctrine applied against the State.

Ingredients

Clear promise + intention to be acted upon + actual reliance + detriment.

Against Government

Applicable; Government is not exempt from equity.

Limits

Cannot compel an act prohibited by law; public interest may outweigh in rare cases.

Leading Case

Motilal Padampat / Anglo-Afghan – foundational Indian authorities.

Constitutional Remedies

Habeas Corpus

Produce the body – protection of personal liberty against illegal detention.

Mandamus

Command to perform a public duty – against public authority.

Prohibition

Prevents inferior court / tribunal from exceeding jurisdiction.

Certiorari

Quashes an order already passed in excess or without jurisdiction / in violation of natural justice.

Quo Warranto

Challenges the legality of a person holding a public office.

Art. 32 & 226

Supreme Court and High Courts – heart of judicial review in India.

Finality Clauses

Meaning

Statutory provision that the decision of an authority shall be final and shall not be called in question in any court.

Judicial Approach

Courts interpret ouster clauses narrowly. Jurisdictional errors remain reviewable.

Anisminic Principle

Error of law going to jurisdiction is not protected by ouster clause.

Indian Position

Consistent with rule of law – complete ouster of judicial review is not accepted for jurisdictional issues.

Constitutional Limit

Judicial review is part of basic structure; cannot be completely excluded.

Exam Tip

State the clause, the narrow interpretation, and the basic structure limit.

Contract and Tort

Contract (Art. 299)

Contracts must be expressed to be made by President/Governor and executed on their behalf.
Non-compliance – unenforceable against Government.

Tort

No general immunity. State is liable for torts of its servants in non-sovereign functions.
Sovereign function exception has been narrowed.

Constitutional Tort

Violation of fundamental rights can sound in damages – Nilabati Behera, Rudul Sah.

Promissory Estoppel

Already covered – equity against the State.

Legitimate Expectation

Closely related – procedural and sometimes substantive protection.

Exam Tip

Distinguish contractual liability (Art. 299 formalities) from tort and constitutional tort.

UNIT-IV

01

Discretion

Never absolute; must be exercised for proper purpose on relevant considerations.

02

Grounds of Review

Illegality, irrationality, procedural impropriety + proportionality & legitimate expectation.

03

Writs

Five main writs under Art. 32/226 – primary public law remedies.

04

Ouster Clauses

Narrowly construed; jurisdictional errors remain reviewable.

05

State Liability

Contract (Art. 299), Tort (narrowed sovereign immunity), Constitutional Tort.

06

Estoppel & Expectation

Equity and fairness bind the Government.

End of UNIT – IV

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