

## REVIEWS

ADMINISTRATIVE LAW IN INDIA. By S.P. Sathe. N.M. Tripathi Private Ltd., Bombay. 1970. Pp. xxxviii+294. Rs. 22.

The book is mainly an exposition of the principles of Indian administrative law as evolved by the courts. The author in the Introduction deals with the need for administrative law, its scope, definition and development in India, and relevance of the doctrines of rule of law and separation of powers in the context of the administrative process. In the subsequent chapters the author has successively dealt with the classification of administrative functions ; delegated legislation, constitutional limitations on the delegation of legislative power by the legislatures and the control of delegated legislation—judicial as well as parliamentary; the judicial control of quasi-judicial bodies and discretionary powers of the administration; the extraordinary means of judicial redress and ordinary civil remedies of injunctions and declarations available to the persons aggrieved by the administrative action; tortious and contractual liabilities of the state; various privileges and immunities of the state; public corporations and the Lok Pal.

Whatever material is contained in the book is well written, well presented and well analysed. Lucidity and freedom from verbiage characterise the style of the book. In the opinion of the reviewer, the author has kept the needs of the LL.B. students in view and has refrained from going into depth. Without sacrificing this objective, perhaps it would have been better had he dealt with topics such as principles of natural justice and control of discretionary powers of the administration in greater detail. The principles of natural justice occupy a cardinal place in the administrative adjudicatory process. The discussion on the subject is not complete without referring to cases on adequacy of notice and the right of cross-examination. The reviewer noticed the absence of these cases. Similarly, in the area of judicial control of administrative discretion, the author has not brought out adequately the extent to which the courts are disposed to review the merits of the exercise of discretion. In this connection it may be pointed out that reference should have been made to *Barium Chemicals Ltd. v. Company Law Board*,<sup>1</sup> and *Rohtas Industries v. S.T. Agarwal*,<sup>2</sup> which have opened a new vista in judicial control of discretionary power. These judicial decisions, it may be stated, have expanded the scope of the reviewing power of the courts in that they can examine the case on merits under such formula as that the facts or circumstances are not relevant to the grounds or there does not exist a causal connection between the facts and the grounds. Further, the

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1. A.I.R. 1967 S.C. 295.

2. A.I.R. 1969 S.C. 707. For a comment on these cases see, S.N. Jain, *New Trends in Judicial Control of Administrative Discretion*, 11 *J.I.L.I.* 544-53 (1969).

Supreme Court's insistence that an authority exercising "administrative powers" should disclose circumstances in the affidavit is a marked development in the power of the judiciary to scrutinise the exercise of administrative discretion. The courts are thus enabled to examine to a much greater degree than before whether the exercise of discretion is lawful or not. This is similar to the requirement on quasi-judicial authorities to give reasons in support of their decisions though one must hasten to add that no administrative order will be quashed for failure to give reasons to the aggrieved party.

Discussing the Lok Pal and Lok Ayuktas Bill, 1968, the author has remarked on page 254 that the absence of a requirement for the President to consult the Prime Minister in the appointment of the Lok Pal is a serious omission which "will adversely affect the harmony of the parliamentary process." In a parliamentary form of government such as prevalent in India, it is naive to think that the President will not act on the advice of the Council of Ministers in such a significant appointment as that of the Lok Pal. Further, his doubts about the consultations of the President with the Council of Ministers in the appointment of the judges of the higher judiciary is without basis as we know as a matter of convention and practice that the President appoints judges on the advice of the Cabinet. The effective power in this regard used to lie previously with the Ministry of Home Affairs, Government of India. Now with the reallocation of subjects to the Union Ministries, the Union Ministry of Law and Justice seems to play a prominent role in this regard.

There are a few printing errors. The author has given a small errata in the addenda of the book.<sup>3</sup> However, the following mistake has escaped his attention: On page 122 while discussing the principle of bias, it is stated that "justice should not only be done but must manifestly and undoubtedly be seem(!) to be done."

The printing and getup of the book is good. The book is a valuable addition to the growing literature on Indian administrative law.

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3. See, Sathe, *Administrative Law in India* pp. xxxvii, xxxiii.

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