

RMM LAW COLLEGE SAHARSA

ADMINISTRATIVE LAW

IIIrd Part

Paper -VII

TOPIC- Rule of Law

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Dicey is one of the well known jurists of England and he has written a famous book “Law of the Constitution”. One should know the difference between administrative law and the rule of law. People who are in government job have different law from ordinary citizens and the rule of law is equal for everyone whether he is Prime minister of India or a normal clerk working in an office. The same law will be applicable to both of them, no discrimination will be done under the rule of law and rule of law is supreme in nature.

Dicey was against making different rules for a different class of people so he stood by against this concept and promoted the idea of Rule of law. Here a term is used “**Droit administrative**” was introduced by Napoleon and in France, it was known as Droit Administratif. France was having separate administrative court for dealing with the matter. According to this action by the citizens against an official for a wrongful act committed in their official capacity will be dealt by the special court not by the ordinary courts of law. Droit administratif does not consist of rules and law made by the French parliament but it includes a rule which is developed by the judges of the administrative court.

The doctrine of Rule of law has 3 meaning in Dicey book.

1. Supremacy of law.
2. Equality before the law.

3. The predominance of a legal spirit.

Merit and Demerits of the Dicey Concept

Merits:

1. Help in making limits to the power of administrative authorities.
2. A major role in growth and recognition of administrative law.
3. Act as a scale for the test of administrative action.

Demerits:

1. His theory was not fully accepted during that era also.
2. Failed to distinguish between discretionary and arbitrary power.
3. He misunderstood the concept of Droit administration which was actually successful in France.

Rule of law

Rule of law is a product of struggle by the people from centuries for recognition of their inherent rights and the concept of a rule is very ancient and old. During the ancient times, the concept of rule of law was discussed by the Greek philosopher Aristotle and Plato at the time of 350 BC so now you can imagine how old this concept. Plato has written that if rule of law under the supervision of any law than it doesn't have any value and the concept of state will get collapsed and if the law is master of government and government work as a slave for law then the concept of state will work effectively and humans can enjoy their rights.

According to Plato the meaning of rule of law is that it is supreme in nature and nobody is above the law.

According to Aristotle has written that law should be the final sovereign of the state.

According to Sir Edward Coke “Rule of Law” means the absence of arbitrary power on the part of Government.

This phrase was derived from the French phrase “*la Principe de legality*” which means that the principle of legality whatever the legal system principle is called a rule of law. Which refers to government is based on the principles not on any individuals and according to the law everything will move. Rule of law is the basic principle of the English constitution and this doctrine is accepted by the US and as well as India also.

The entire basis of Administrative law is the Rule of law and delegated legislation is the backbone of administrative law.