

RMM LAW COLLEGE SAHARSA

JURISPRUDENCE

Part I

Paper -1

Topic- Administration of Justice

Lecture Notes by- Indra Bhushan Singh

Date:- 03/01/20

THE CONCEPT OF JUSTICE

The concept of justice did not originate recently but its origin is as old as the existence of humans. This concept evolved as more noticeably along with the development of the concept of state, which assures justice to every single citizen of the country through the instrument of law. Humans sustain an inherent social nature and want to live peacefully in this society and try to avoid conflict of interest. Every individual expects rightful conduct from other individuals. Therefore, justice is a significant instrument from where the concept of rights, duties, and equality evolves. In a territory, without the weapon of justice, it becomes very difficult for the government to retain an orderly society. Further, with the development of law, the concept of delivering justice also broadened. The significance of legal justice is that it tries to ensure uniformity and certainty of law but at the same time, it also ensures that the rights and duties of every citizen are duly respected. Hence, an essential feature is the element of being impartial while delivering justice and one should be just and fair. The modern concept of justice is expressed as justice according to the law which is also known as the rule of law.

ORIGIN OF ADMINISTRATION OF JUSTICE

The concept and administration of justice, which is prevailing in recent contemporary societies, developed through several stages. In a primitive society, private retribution and self-help were

the only remedies accessible by the wronged person against the wrongdoer. The second stage of development of the society is characterized by the state coming into existence and taking its fundamental form when the functions were persuasive in nature. The third stage of development of society witnessed retaliation of wrongs by making payment of compensation by the wrongdoer to the victim who is affected by the wrongful act. But with the course of duration, the government exerted its authority and took the responsibility of the administration of justice. It was the responsibility of the government to punish the wrongdoer by utilizing its power whenever necessary and deliver it to the citizens. This stage of development witnessed that acts of wrong done by any individual was no longer treated as a private wrong but it was contemplated as an offense against the state and such individuals will be punishable according to the law of the country. Accordingly, the prevailing administration of justice owes its origin and growth to the incremental evaluation of the state and its power. Thus, with increasing state power the self-help remedies which existed in the earlier stage were substituted by the administration of criminal and civil justice through law courts of the nation.

DEALING WITH JUSTICE

Dealing with justice pertains to the decision-making process of the court. In such a process of decision making, courts have to encounter various kinds of difficulties which are presented before while performing their judicial duties and delivering justice to the people. These cases may be easy, intermediate, or hard. But especially while dealing with the hard cases, they may have to come across numerous situations wherein the court is required to exercise discretion in the larger public interest. During such circumstances, the court comes across with several possibilities, all of which appear to be lawful within the context of the system and during such circumstances, judicial discretion exists as a choice not between lawful and unlawful but between lawful and lawful amongst which the court is supposed to choose the solution which is in the larger public interest. Therefore, discretion, when applied to a court of justice, means sound discretion guided by law.[1]

IMPORTANCE OF ADMINISTRATION OF JUSTICE

Every human being commonly inherits a selfish nature and that is the reason there is a requirement of external coercive authority in order to maintain an individual within limits and restrain the unfettered liberty of that individual. Unlimited and unrestrained liberty would lead

to a situation of chaos. The true meaning of liberty is that liberty comprises the power to do everything that does not injure another which implies that every individual is unrestricted to do whatever he desires provided that his actions must not infringe on the equal freedom of any other individual. Thus, liberty speaks about the freedom of action so far permitted by law. In order to keep people within control, a common power is necessary and the state also requires force to prevent the recalcitrant minority from attaining an unfair benefit over common law-abiding people. Hence, the force of the state is an inevitable instrument for the protection of the rights of individuals in society.

Justice is said to be the absolute end of law and the goal of society, which judges of the court have been pouring into law with new variants of justice in the form of contemporary values and need-based rights like freedom, liberty, dignity, equality, social justice as authorized by the constitutional document and access to justice to the people is, therefore, the foundation of the Constitution of India.[2]

According to Dicey, rule of law meant treating people equally and every human being is subject to the law of the territory. Law is an effective weapon to render justice to each individual of the country but it can also be utilized as a device to cause massive exploitation of people which was witnessed during British rule. After independence and particularly during the post-emergency era the higher courts have recognized that the constitution which is the supreme law of the country guarantees not the only rule of law but also the rule of justice and if any law which is not just, fair and reasonable then it will be considered as invalid under the constitution.