



Administrative Law

Basic Principles

RULE OF LAW

Dicey's Rule of Law.

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SUPREMACY OF LAW

- No arbitrary powers
- Punishment – for breach of law only
- Govt. subject to law

EQUALITY BEFORE LAW

- Equal subjection of all classes
- No special tribunals
- Criticized French *droit administratif*
- Special courts for officers is negation of equality

PREDOMINANCE OF LEGAL SPIRIT

- Rights declared by written Constitution
- In England, enforced by courts
- Constitution consequence of rights not the source
- Courts role is guarantor of liberty.
- Remedies essential.

1 SUPREMACY OF LAW

- a. Rule of law according to Dicey means the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power or wide discretionary power.
- b. It means the exclusion of the existence of arbitrariness on part of the government.
- c. This in essence means that no man can be arrested, punished or be lawfully made to suffer in body or in goods except by the due process of law and for breach of a law established in the ordinary legal manner before the ordinary courts of the land

2 EQUALITY BEFORE LAW

- ▶ **Equal subjection of all class**
- ▶ While explaining this aspect of the doctrine, Dicey stated that there must be equality before the law or equal subjection of all classes to the ordinary law of the land administered by the ordinary law courts
- ▶ **No special tribunals**
- ▶ Dicey believed that the exemption of civil servants from the jurisdiction of the ordinary courts of law and providing them with the special tribunals was the negation of equality.
- ▶ **Special courts for officers is negation of equality**
- ▶ He stated that any encroachments on the jurisdiction of the courts and any restriction on the subject's unimpeded access to them are bound to jeopardise his rights.
- ▶ Criticized French *droit administratif*

3 PREDOMINANCE OF LEGAL SPIRIT /JUDGE MADE LAW

- ▶ Rights declared by written Constitution
- ▶ In England, enforced by courts
- ▶ Constitution consequence of rights not the source
- ▶ Courts role is guarantor of liberty.
- ▶ Effective remedies of protection and enforcement is essential.
- ▶ Even if written constitution, it can be amended and rights abrogated , hence powerful and independent judiciary is essential

Merits

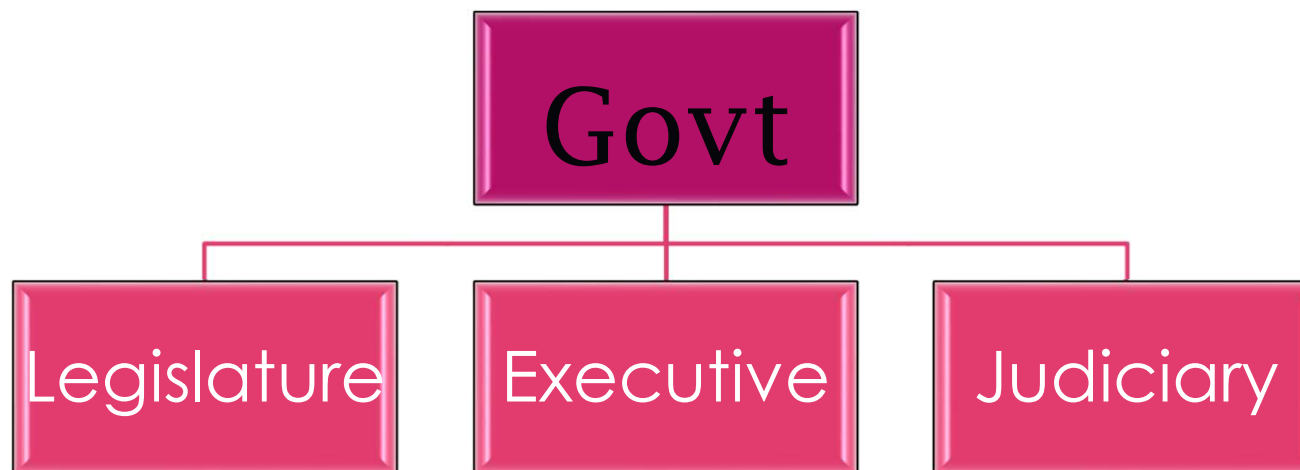
- ▶ Effective and powerful weapon for limiting authorities
- ▶ I principle –opposed arbitrary powers which violates rights of citizens
- ▶ II principle –Equality and subjects everyone below Law –'Law is above you'
- ▶ III principle ---emphasis on role and responsibility of judiciary

Demerits

- ▶ Equated supremacy of law with ---no arbitrary but even DISCRETIONARY powers
- ▶ Thus failed to distinguish between arbitrary and discretionary powers
- ▶ Misunderstood *droit administratif*----*more effective in control of abuse.*
- ▶ *No equality even in England as 'king can do no wrong'—privileges to govt --- doctrine was prevalent in his times*

Separation of Power

- ▶ Separation of powers had an intimate impact on development of Administrative law in USA.
- ▶ Davis – 'SOP --principal doctrinal barrier'
- ▶ Three main categories of governmental function



Separation of Power

- These powers exercised by three different organs.
- Acc. to SOP - in free Democracy the powers and functions of the govt always be kept separate.
- Historical background-
- Origin –Plato and Aristotle in 16th -17th century

