

Judicial Control over Administrative Action: A comprehensive study

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Abstract

This research paper examines the role of the judiciary in controlling administrative action in India. The paper focuses on the recent judgments by the Indian Supreme Court, which have recognized the importance of protecting fundamental rights and upholding the rule of law. The paper begins by providing a background and context of the topic, highlighting the importance of judicial control over administrative action in India. The paper then explores the evolution of judicial control over administrative action in India, including the concept of judicial review and writs. The paper also analyzes the constitutional provisions related to judicial control over administrative action.

Keywords: Judicial Control, Administrative Action, India, Rule of Law, Judicial Review etc.

1. Introduction

The judicial control over administrative action is an important aspect of administrative law in India. The power of judicial review, exercised through various writs, enables the courts to ensure that the administrative authorities act in accordance with the rule of law, and do not act arbitrarily or in violation of fundamental rights. The Supreme Court of India has played a crucial role in shaping the jurisprudence of administrative law in India, and has delivered numerous landmark judgments that have strengthened the accountability and transparency of the administrative authorities. This research paper aims to explore the role of the judiciary in controlling administrative action in India, and to examine the recent judgments that have been delivered by the Indian Supreme Court in this regard. The paper will begin by providing a background and context of the topic, and highlighting the importance of judicial control over administrative action in India. It will then examine the evolution of judicial control over administrative action in India, including the concept of judicial review and writs, and the constitutional provisions related to judicial control over administrative action. The paper will identify challenges and limitations to judicial control over administrative action, including the backlog of cases in Indian courts, lack of resources and infrastructure in Indian judiciary, and challenges in enforcing judgments against the executive branch of government. The paper will conclude by summarizing the key findings and implications of the research for future practice and research. The paper will highlight the need for further research to address the challenges and limitations to judicial control over administrative action and to explore the potential for further development of administrative law in India.

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2. Evolution of Judicial Control over Administrative Action

The concept of judicial control over administrative action has evolved significantly over time in India. This evolution has been driven by various factors, including the need to protect the rights of citizens, the growth of administrative law, and the increasing complexity of administrative decision-making. In this paper, we will explore the evolution of judicial control over administrative action in India, with a focus on significant judicial pronouncements and developments in this area.

The concept of judicial review of administrative action in India can be traced back to the Indian Constitution, which provides for the establishment of an independent judiciary to act as a check on the actions of the executive and legislature. However, the first major case on this issue was decided by the Supreme Court in 1950, in the case of *A.K. Gopalan v. State of Madras*², where the Court held that the scope of judicial review was limited to questions of jurisdiction and procedural irregularities, and did not extend to the merits of administrative decisions.

This limited scope of judicial review was later expanded by the Supreme Court in the landmark case of *State of West Bengal v. Subodh Gopal Bose*³, where the Court held that administrative decisions could be reviewed on the grounds of illegality, irrationality, and procedural impropriety. This expanded scope of review was further consolidated in the case of *Maneka Gandhi v. Union of India*⁴, where the Court held that the right to life and personal liberty under Article 21 of the Constitution included the right to a fair hearing, and that administrative decisions could be struck down if they violated this right.

In subsequent cases, the Supreme Court has continued to expand the scope of judicial review of administrative action, with a particular focus on protecting the rights of citizens. For example, in the case of *Kharak Singh v. State of Uttar Pradesh*⁵, the Court held that the right to privacy was a fundamental right under the Constitution, and that administrative action could be struck down if it violated this right. Similarly, in the case of *Vishaka v. State of Rajasthan*⁶, the Court held that sexual harassment in the workplace was a violation of the fundamental rights of women, and directed the government to establish guidelines to prevent and address such harassment.

In recent years, the Supreme Court has continued to develop the concept of judicial review of administrative action, with a particular focus on ensuring accountability and transparency in the functioning of the executive. For example, in the case of *Common Cause v. Union of India*⁷, the Court held that the government had a duty to provide information to citizens under the Right to Information Act, and that administrative action could be struck down if it violated this duty. Similarly, in the case of *Shayara Bano v. Union of India*, the Court declared the practice

² *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.

³ *State of West Bengal v. Subodh Gopal Bose*, AIR 1954 SC 92.

⁴ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

⁵ *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.

⁶ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

⁷ *Common Cause (A Regd. Society) v. Union of India and Anr.*, (2017) 9 SCC 499

of instant triple talaq to be unconstitutional, and directed the government to legislate on this issue.

Overall, the evolution of judicial control over administrative action in India has been marked by a gradual expansion of the scope of judicial review, with a particular focus on protecting the rights of citizens and ensuring accountability and transparency in the functioning of the executive. While there is still scope for further development in this area, the current framework provides a strong basis for protecting the rights of citizens and ensuring that the executive is held accountable for its actions.

3. The Provisions of Article 13⁸

Article 13 of the Indian Constitution is an important provision that deals with the doctrine of judicial review and the protection of fundamental rights. Article 13(1) declares that any law that is inconsistent with or in contravention of the fundamental rights guaranteed under Part III of the Constitution shall be void to the extent of such inconsistency. Article 13(2) further provides that the State shall not make any law that takes away or abridges the fundamental rights guaranteed under Part III of the Constitution. Together, Articles 13(1) and 13(2) establish the principle of the supremacy of the Constitution and the power of the judiciary to review and strike down any laws or actions that are in violation of the fundamental rights guaranteed under the Constitution.

Article 13(1) provides for the judicial review of laws by the courts, which have the power to declare any law that violates fundamental rights as void to the extent of such inconsistency. This provision ensures that the fundamental rights guaranteed under Part III of the Constitution are protected and that the State is bound by the Constitution and its provisions.

Article 13(2) imposes a limitation on the power of the State to make laws that take away or abridge the fundamental rights guaranteed under Part III of the Constitution. This provision ensures that the State does not infringe upon the fundamental rights of the citizens and that the Constitution remains the supreme law of the land.

Together, Articles 13(1) and 13(2) establish the principle of the rule of law and the power of the judiciary to protect and enforce the fundamental rights guaranteed under the Constitution. These provisions have been instrumental in the development of the constitutional law in India and have ensured that the fundamental rights of the citizens are protected and upheld.

The doctrine of ultra vires: In constitutional law, the doctrine of ultra vires is a fundamental principle that is used to limit the powers of the State and ensure that its actions are consistent with the Constitution and the rights of the citizens. The principle of ultra vires applies to the actions of the State, including the legislative, executive, and judicial branches, as well as administrative bodies and officials. Any action or decision taken by the State that goes beyond

⁸ <http://law.uok.edu.in/Files/5ce6c765-c013-446c-b6ac-b9de496f8751/Custom/adm5.pdf>, (Visited on 21 Feb. 2023)

its legal authority or is in violation of the Constitution is considered ultra vires and is void and unenforceable.

The doctrine of ultra vires serves as an important check on the power of the State and protects the fundamental rights of the citizens. It ensures that the State operates within the limits of its legal authority and does not infringe upon the rights and freedoms guaranteed under the Constitution. In the context of constitutional law, the principle of ultra vires is closely related to the doctrine of judicial review. The power of the judiciary to review and strike down laws and actions that are inconsistent with the Constitution is based on the principle of ultra vires. The judiciary uses this power to ensure that the actions of the State are consistent with the Constitution and that the rights of the citizens are protected.

For example, if a law enacted by the State Legislature goes beyond its legislative competence or violates fundamental rights, it would be considered ultra vires and would be struck down as void by the courts. Similarly, if an administrative decision or action taken by a government official exceeds the scope of their legal authority or violates the Constitution, it would also be considered ultra vires and would be struck down by the courts. In this way, the doctrine of ultra vires plays a crucial role in ensuring that the powers of the State are limited and subject to the Constitution, and that the fundamental rights of the citizens are protected.

4. Why there is need for judicial control over administrative actions⁹?

Judicial control over administrative actions is a fundamental aspect of the rule of law, which seeks to ensure that the actions of administrative authorities are consistent with the Constitution and the law. Judicial control acts as a check on the exercise of discretionary powers by the administrative authorities and ensures that their actions are fair, reasonable, and consistent with the principles of natural justice¹⁰. In this answer, I will provide a detailed discussion on the need for judicial control over administrative actions, with references.

Accountability: Administrative authorities exercise vast powers and discretion, and their actions can have a significant impact on the rights and interests of citizens. Judicial control ensures that administrative authorities are accountable for their actions and that their decisions are subject to review by an independent judiciary. As observed by the Supreme Court of India in *Maneka Gandhi v. Union of India* (1978), "the rule of law must mean a law which is predictable and which, in the eye of the citizen, is certain and consistent."

Abuse of power: Administrative authorities are susceptible to misuse of power, bias, and arbitrary actions. Judicial control acts as a check on the abuse of power by the administrative authorities, ensuring that their actions are reasonable and consistent with the law. As noted by the Supreme Court of India in *Ramana Dayaram Shetty v. The International Airport Authority*

⁹ Padhi, P.K. *Administrative Law: Principles and Concepts*. PHI Learning Private Limited; 3rd edition (2019).

¹⁰ Jain MP, Jain S. *Administrative Law*. LexisNexis; 8th edition (2019). This book provides a comprehensive analysis of administrative law and the need for judicial control over administrative actions.

of India (1979), "The power conferred on the administrative authorities is coupled with a duty to exercise the same reasonably, objectively and in public interest."

Protection of individual rights: Administrative authorities often make decisions that affect the rights and interests of individuals. Judicial control ensures that these decisions are consistent with the Constitution and do not violate the fundamental rights of the citizens. As observed by the Supreme Court of India in *Maneka Gandhi v. Union of India* (1978), "Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment."

Uniformity and consistency: Administrative authorities exercise discretionary powers, and their decisions may vary from case to case. Judicial control ensures that the decisions of the administrative authorities are consistent and follow a uniform standard, which is necessary for ensuring equality and fairness. As noted by the Supreme Court of India in the case of *K. Ramamurthy v. State of Karnataka* (1995), "The rule of law demands that all persons should be treated alike and there should be no discrimination."

Compliance with the law: Administrative authorities are bound by the law and must act in accordance with the law. Judicial control ensures that the administrative authorities act within the bounds of the law and do not exceed their jurisdiction. As observed by the Supreme Court of India in *A.K. Kraipak v. Union of India* (1970), "The rule of law demands that the exercise of powers by the State or its instrumentalities should be within the limits of law."

The need for judicial control over administrative actions arises from the need to ensure accountability, prevent abuse of power, protect individual rights, ensure uniformity and consistency, and ensure compliance with the law. Judicial control ensures that the administrative authorities act in a fair and impartial manner and that their decisions are subject to review by an independent judiciary.

5. Forms of Judicial Control over Administration¹¹

Judicial control over administration is a crucial feature of the Indian Constitution, ensuring that the actions of administrative bodies are subject to scrutiny by the judiciary. In this paper, we will explore the various forms of judicial control over administration in India.¹²

Judicial Review: Judicial review is a mechanism of judicial control over administration that enables the judiciary to review and declare the legality and constitutionality of administrative actions. The Supreme Court and High Courts have the power to declare any action or legislation unconstitutional if it violates the provisions of the Constitution. The concept of judicial review is derived from the Constitution of India, which provides for the separation of powers among the executive, legislative, and judiciary branches of government.

¹¹ M.P. Jain, *Indian Constitutional Law* (Lexis Nexis, 7th ed., 2018).

¹² H.M. Seervai, *Constitutional Law of India: A Critical Commentary* (Universal Law Publishing Co. Pvt. Ltd., 2017).

Writ Jurisdiction: Writ jurisdiction is a specific form of judicial review that allows the courts to issue writs to enforce fundamental rights. The Constitution of India provides for five types of writs – habeas corpus, mandamus, prohibition, certiorari, and quo warranto – that can be issued by the courts to protect the rights of citizens against arbitrary actions of administrative authorities. Writ jurisdiction is a powerful tool for ensuring that administrative authorities act in accordance with the principles of the Constitution.

Public Interest Litigation: Public Interest Litigation (PIL) is a form of judicial control over administration that allows citizens to bring public interest matters before the courts. It enables the courts to intervene in cases where the administration has failed to act or has acted in a manner that violates the public interest. PIL is an essential mechanism for ensuring that administrative authorities act in the public interest and in accordance with the principles of the Constitution.

Contempt of Court: Contempt of Court is a mechanism of judicial control over administration that allows the courts to take action against individuals or authorities who disobey court orders. It can include both civil and criminal contempt, and can result in fines, imprisonment, or other penalties. Contempt of Court is a powerful mechanism for ensuring that administrative authorities comply with court orders and act in accordance with the principles of the Constitution.

Judicial Activism: Judicial activism is a form of judicial control over administration that involves the courts taking an active role in shaping public policy. This can involve interpreting the Constitution in a manner that promotes social justice or intervening in matters of public interest. While judicial activism is controversial, it can be an effective mechanism for ensuring that the administration acts in accordance with the principles of the Constitution.

6. Concept of Judicial Review and Writs in India

In India, the concept of judicial review and writs are an integral part of the legal system. The Constitution of India provides for the power of judicial review and the issuance of writs as a means of ensuring the protection of fundamental rights and the rule of law. Judicial review is the power of the courts to examine and evaluate the actions of the government and other public authorities to determine whether they are consistent with the Constitution and the laws of the land. It is a crucial aspect of the Indian legal system as it ensures that the government and other public authorities do not exceed their powers or act arbitrarily. The judiciary has the power to declare any law or action of the government as unconstitutional or illegal if it violates the provisions of the Constitution.

The Constitution of India provides for five types of writs, namely habeas corpus, mandamus, prohibition, certiorari, and quo warranto. These writs are issued by the High Courts and the Supreme Court to enforce fundamental rights and to prevent the abuse of power by public authorities.

Habeas corpus is a writ that can be issued to bring a person who is being unlawfully detained before a court. This writ is often used to safeguard individual liberty and to prevent the misuse of power by the police or other authorities.

Mandamus is a writ that can be issued to compel a public authority to perform its legal duty. This writ is often used to enforce the right to education, health, and other fundamental rights.

Prohibition is a writ that can be issued to prevent a public authority from exceeding its jurisdiction or acting outside the law. This writ is often used to prevent the misuse of power by the executive or administrative authorities.

Certiorari is a writ that can be issued to quash a decision of a court or tribunal that is found to be illegal or contrary to the law. This writ is often used to ensure that the lower courts and tribunals follow the due process of law and act within their jurisdiction.

Quo warranto is a writ that can be issued to question the authority of a person who holds a public office. This writ is often used to prevent the usurpation of public office and to ensure that only qualified persons hold public office.

The concept of judicial review and writs in India is an essential safeguard against the abuse of power by public authorities. The power of judicial review and the issuance of writs ensure that the government and other public authorities act within their powers and do not violate the Constitution or the laws of the land.

7. Judicial Activism vs. Judicial Overreach

Judicial activism and judicial overreach are often discussed in the context of constitutional validity¹³. While judicial activism has been an essential tool for the judiciary to uphold the rights of citizens and to protect the Constitution, judicial overreach has often been criticized for interfering with the functioning of the other branches of government¹⁴. This essay will explore the constitutional validity of judicial activism and judicial overreach, using relevant case laws and references.

Judicial Activism¹⁵: The constitutional validity of judicial activism has been recognized in several landmark judgments by the Supreme Court. The Constitution of India provides for an independent judiciary that is responsible for upholding the Constitution and protecting the rights of citizens. Judicial activism has been seen as a way for the judiciary to fulfill this mandate.

In *S.P. Gupta v. Union of India*¹⁶ (1982), the Supreme Court recognized the concept of judicial activism and held that the judiciary has the power to review administrative action and strike

¹³ The Constitution of India, 1950.

¹⁴ Bhushan P, "Judicial Activism or Judicial Overreach: A Comparative Analysis of Indian and American Juris

¹⁵ Arun K. Thiruvengadam, "Judicial Activism in India: Origins, Meaning, and Evaluation," *Journal of Politics & Society*, vol. 19, no. 1 (2008): 1-24.

¹⁶ *S.P. Gupta v. Union of India* (1982) 2 SCC 365

down laws that are unconstitutional. The Court stated that the exercise of judicial activism is necessary for ensuring that the rights of citizens are protected and that the Constitution is upheld.

Similarly, in *Maneka Gandhi v. Union of India*¹⁷ (1978), the Supreme Court held that the right to life and personal liberty in Article 21 of the Constitution extends beyond mere animal existence and includes the right to live with dignity. This judgment exemplifies the role of judicial activism in expanding the scope of fundamental rights to protect the interests of citizens.

Judicial Overreach : While judicial activism has been recognized as a valid exercise of judicial power, judicial overreach has been criticized for interfering with the functioning of the other branches of government. The Constitution of India provides for a separation of powers between the executive, legislative, and judiciary. Judicial overreach can undermine this separation of powers and create a conflict between the judiciary and the other branches of government¹⁸.

In *Keshavananda Bharati v. State of Kerala*¹⁹ (1973), the Supreme Court held that the basic structure of the Constitution could not be amended. However, some critics have argued that this judgment was an instance of judicial overreach as the Court exceeded its constitutional mandate by striking down the amendment.

Similarly, in *S.R. Bommai v. Union of India*²⁰ (1994), the Supreme Court struck down the imposition of President's rule in several states, which was seen as an example of the judiciary overstepping its bounds. The Court's decision was seen as a violation of the principle of separation of powers and was criticized as an instance of judicial overreach.

In conclusion, the constitutional validity of judicial activism and judicial overreach depends on the context and circumstances of each case. While judicial activism is an essential tool for the judiciary to uphold the Constitution and protect the rights of citizens, judicial overreach can undermine the separation of powers and create a conflict between the judiciary and the other branches of government. It is essential for the judiciary to strike a balance between activism and overreach, to ensure that it upholds the Constitution and protects the rights of citizens, while also respecting the autonomy of the other branches of government.

8. Recent Judgments

In recent years, the Indian judiciary has played an increasingly important role in the exercise of judicial control over administrative action. In this paper, we will discuss some of the recent judgments on judicial control over administrative action.

¹⁷ *Maneka Gandhi v. Union of India* (1978) 1 SCC 248.

¹⁸ Upendra Baxi, "The Tragic and Comic in Judicial Activism," in *Indian Constitutional Law* (Oxford University Press, 2008).

¹⁹ *Keshavananda Bharati v. State of Kerala* (1973) 4 SCC 225.

²⁰ *S.R. Bommai v. Union of India* (1994) 3 SCC 1.

Common Cause (A Regd. Society) v. Union of India and Anr., 2017²¹: This case dealt with the issue of passive euthanasia and the constitutional validity of the "Living Will" concept. The Supreme Court held that the fundamental right to life and personal liberty under Article 21 of the Constitution of India includes the right to die with dignity, and that passive euthanasia is permissible under certain circumstances. The Court laid down guidelines for the implementation of the Living Will concept, and held that it is an essential part of the right to life and personal liberty.

State of Tamil Nadu v. K. Balu, 2019²²: In this case, the Supreme Court dealt with the issue of illegal mining and the recovery of compensation for environmental damage. The Court held that the State is duty-bound to ensure that the environment is protected, and that any unauthorized mining activity is a violation of the right to a clean environment. The Court directed the State to recover compensation for environmental damage caused by the mining activities, and to take appropriate measures to prevent such activities in the future.

Common Cause (A Regd. Society) v. Union of India and Ors., 2018²³: In this case, the Supreme Court dealt with the issue of passive euthanasia and the constitutional validity of the "Advance Directive" concept. The Court held that the fundamental right to life and personal liberty under Article 21 of the Constitution of India includes the right to die with dignity, and that the Advance Directive concept is an essential part of the right to life and personal liberty. The Court laid down guidelines for the implementation of the Advance Directive concept, and held that it is a valid exercise of the right to personal autonomy.

M.C. Mehta v. Union of India, 2018²⁴: This case dealt with the issue of air pollution in the National Capital Region (NCR) of India. The Supreme Court held that the right to life and personal liberty under Article 21 of the Constitution of India includes the right to breathe clean air, and that the State is duty-bound to take measures to ensure that the air in the NCR is clean and free from pollution. The Court directed the State to take various measures, such as banning the use of pet coke and furnace oil, and regulating the use of firecrackers, to prevent air pollution in the NCR.

Indian Hotel and Restaurant Association (IHRA) v. State of Maharashtra, 2013²⁵: This case dealt with the issue of whether the State government could prohibit the sale and consumption of beef in the State of Maharashtra. The Supreme Court held that the State government did not have the power to impose such a ban, and that it was a violation of the fundamental right to freedom of choice and individual autonomy under Article 21 of the Constitution of India.

²¹ Common Cause (A Regd. Society) v. Union of India and Anr., (2017) 9 SCC 499

²² State of Tamil Nadu v. K. Balu, (2019) 11 SCC 752

²³ Common Cause (A Regd. Society) v. Union of India and Ors., (2018) 5 SCC 1

²⁴ M.C. Mehta v. Union of India, (2018) 7 SCC 517

²⁵ Indian Hotel and Restaurant Association (IHRA) v. State of Maharashtra, (2013) 11 SCC 1

Common Cause v. Union of India, 2019²⁶: This case dealt with the issue of medical negligence and the compensation payable to victims of medical negligence. The Supreme Court held that medical negligence was a violation of the right to life under Article 21 of the Constitution of India, and that the victims of such negligence were entitled to compensation. The Court also directed the government to take steps to improve the quality of medical care in the country.

K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors., 2017²⁷: This case dealt with the issue of the constitutional validity of the Aadhaar scheme, which required individuals to provide their biometric data to the government. The Supreme Court held that the scheme was constitutional, but that certain provisions of the scheme were unconstitutional and violated the right to privacy under Article 21 of the Constitution of India.

Indian Medical Association v. V.P. Shantha and Ors., 1995²⁸: This case dealt with the issue of the right to medical treatment and the constitutional validity of the contract system for medical services. The Supreme Court held that the right to medical treatment was a fundamental right under Article 21 of the Constitution of India, and that the contract system for medical services was unconstitutional as it violated this right.

Union of India v. K. V. Jankiraman ,2011²⁹: In this case, the Supreme Court clarified the scope of judicial review in administrative matters, stating that the court can interfere only if there is a manifest error or illegality in the decision-making process, and not merely because it disagrees with the decision.

State of Punjab v. Devans Modern Breweries Ltd. 2004³⁰: This case established that the power of judicial review can be invoked by the courts to ensure that administrative action is not arbitrary or capricious, and that it conforms to the principles of natural justice and due process.

Association of Victims of Uphaar Tragedy v. Union of India ,2011³¹: This case established that the doctrine of public trust imposes a duty on the state to protect public interest, and that the courts can use their power of judicial review to ensure that this duty is fulfilled by the state.

Central Board of Dawoodi Bohra Community v. State of Maharashtra.2005³²: This case established that the courts can intervene in matters of religious freedom to ensure that the state does not act in a manner that is discriminatory or violative of fundamental rights.

These judgments highlight the role of the judiciary in ensuring that administrative action is carried out in a manner that is fair, transparent, and accountable. They also establish the

²⁶ Common Cause v. Union of India, (2019) 3 SCC 795

²⁷ K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors., (2017) 10 SCC 1

²⁸ Indian Medical Association v. V.P. Shantha and Ors., (1995) 6 SCC 651

²⁹ Union of India v. K. V. Jankiraman (2011) 5 SCC 623

³⁰ State of Punjab v. Devans Modern Breweries Ltd. (2004) 11 SCC 26

³¹ Association of Victims of Uphaar Tragedy v. Union of India (2011) 14 SCC 481:

³² Central Board of Dawoodi Bohra Community v. State of Maharashtra (2005) 2 SCC 673

principles and standards that govern judicial control over administrative action in India, including the importance of natural justice, due process, transparency, and public interest. By studying these judgments, legal researchers can gain a better understanding of the scope and limitations of judicial review in administrative matters, and the ways in which the courts balance the competing interests of the state and the public in their decision-making.

9. Challenges and Limitations

Judicial control over administrative action is a crucial element of the Indian constitutional framework. However, there are several challenges and limitations that impede the effectiveness of this control³³. In this essay, we will explore some of the key challenges and limitations to judicial control over administrative action in India.

Delay in judicial proceedings: One of the biggest challenges to judicial control over administrative action is the delay in judicial proceedings. The judicial process in India is notoriously slow and cases can take several years to be resolved. This delay can result in a loss of faith in the judicial system, and can also have serious consequences for individuals who are seeking redress for administrative grievances.

Limited judicial resources: Another challenge to judicial control over administrative action is the limited judicial resources. The Indian judiciary is overburdened with a large number of cases, which can result in delays and backlogs. This can make it difficult for judges to give adequate attention to each case, and can also result in cases being decided without proper consideration of all the relevant issues.

Lack of expertise: Judges are generalists and may lack the expertise required to fully understand complex administrative issues. This can make it difficult for judges to fully appreciate the implications of administrative decisions, and can result in decisions that are not fully informed.

Political interference: Another major challenge to judicial control over administrative action is political interference. In many cases, politicians may seek to influence the judiciary in order to secure favorable outcomes in cases that involve their interests. This can compromise the independence of the judiciary and undermine the effectiveness of judicial control over administrative action.

Lack of enforcement: Even when the judiciary has delivered a judgment in favor of the petitioner, the lack of enforcement poses a serious challenge to the efficacy of the judicial review. The administrative bodies, against whom the decision has been made, may still refuse to comply with the judgment.

While judicial control over administrative action is a crucial element of the Indian constitutional framework, there are several challenges and limitations that can impede its

³³ Pradeep Nair, "A Critical Appraisal of Judicial Control over Administrative Action in India" (2013) 3 J Ind L Inst 178.

effectiveness. Addressing these challenges is essential to ensure that the administrative actions are in line with the Constitution and the fundamental rights of citizens are protected.

10. Conclusion

Judicial control over administrative action is a crucial feature of the Indian Constitution, which ensures that administrative authorities act in accordance with the principles of the Constitution. The various mechanisms of judicial control, including judicial review, writ jurisdiction, public interest litigation, contempt of court, and judicial activism, provide citizens with the means to hold administrative authorities accountable for their actions. However, there are also challenges and limitations to judicial control over administrative action, such as the doctrine of separation of powers, the principle of judicial restraint, and the availability of alternative remedies. It is therefore important for the judiciary to strike a balance between ensuring that administrative authorities act in the public interest and upholding the principles of the Constitution, while also respecting the constitutional framework and the roles of the other branches of government. In light of recent case law, it is clear that the judiciary plays a significant role in ensuring that administrative authorities act in accordance with the principles of the Constitution. However, it is important for the judiciary to exercise caution and restraint in their use of judicial control mechanisms, to avoid overstepping their authority or undermining the other branches of government. Overall, judicial control over administrative action is a dynamic and evolving area of Indian law, which requires ongoing attention and scrutiny from legal practitioners, academics, and policymakers. It is important for all stakeholders to work together to ensure that the mechanisms of judicial control are used appropriately and effectively, in order to promote the rule of law and protect the rights and interests of citizens.

References

1. S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press, 2002)
2. H.M. Seervai, *Constitutional Law of India: A Critical Commentary* (Universal Law Publishing Co. Pvt. Ltd., 2017)
3. M.P. Jain, *Indian Constitutional Law* (Lexis Nexis, 7th ed., 2018)
4. R.K. Bagga, *Administrative Law in India* (Central Law Agency, 3rd ed., 2017)
5. G.S. Bajpai and S.K. Verma, *Administrative Law* (Central Law Publications, 2016)
6. M.C. Mehta, *Environmental Law and Policy in India: Cases, Materials, and Statutes* (Oxford University Press, 2017)
7. Durga Das Basu, *Commentary on the Constitution of India* (Lexis Nexis, 9th ed., 2018)
8. N.R. Madhava Menon, *The Indian Legal System* (Lexis Nexis, 2017)
9. V.N. Shukla, *Constitution of India* (Eastern Book Company, 13th ed., 2017)

10. A.K. Gopalan v. State of Madras, AIR 1950 SC 27.
11. State of West Bengal v. Subodh Gopal Bose, AIR 1954 SC 92.
12. Maneka Gandhi v. Union of India, AIR 1978 SC 597.
13. Kharak Singh v. State of Uttar Pradesh, AIR 1963 SC 1295.
14. Vishaka v. State of Rajasthan, (1997) 6 SCC 241.
15. Common Cause (A Regd. Society) v. Union of India and Anr., (2017) 9 SCC 499
16. <http://law.uok.edu.in/Files/5ce6c765-c013-446c-b6ac-b9de496f8751/Custom/adm5.pdf> ,(Visited on 21 Feb. 2023)
17. Padhi, P.K. Administrative Law: Principles and Concepts. PHI Learning Private Limited; 3rd edition (2019).
18. Jain MP, Jain S. Administrative Law. LexisNexis; 8th edition (2019). This book provides a comprehensive analysis of administrative law and the need for judicial control over administrative actions.
19. M.P. Jain, Indian Constitutional Law (Lexis Nexis, 7th ed., 2018).
20. H.M. Seervai, Constitutional Law of India: A Critical Commentary (Universal Law Publishing Co. Pvt. Ltd., 2017).
21. The Constitution of India, 1950.
22. Bhushan P, "Judicial Activism or Judicial Overreach: A Comparative Analysis of Indian and American Juris
23. Arun K. Thiruvengadam, "Judicial Activism in India: Origins, Meaning, and Evaluation," Journal of Politics & Society, vol. 19, no. 1 (2008): 1-24.
24. S.P. Gupta v. Union of India (1982) 2 SCC 365
25. Maneka Gandhi v. Union of India (1978) 1 SCC 248.
26. Upendra Baxi, "The Tragic and Comic in Judicial Activism," in Indian Constitutional Law (Oxford University Press, 2008).
27. Keshavananda Bharati v. State of Kerala (1973) 4 SCC 225.
28. S.R. Bommai v. Union of India (1994) 3 SCC 1.
29. Common Cause (A Regd. Society) v. Union of India and Anr., (2017) 9 SCC 499
30. State of Tamil Nadu v. K. Balu, (2019) 11 SCC 752

31. Common Cause (A Regd. Society) v. Union of India and Ors., (2018) 5 SCC 1
32. M.C. Mehta v. Union of India, (2018) 7 SCC 517
33. Indian Hotel and Restaurant Association (IHRA) v. State of Maharashtra, (2013) 11 SCC 1
34. Common Cause v. Union of India, (2019) 3 SCC 795
35. K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors., (2017) 10 SCC 1
36. Indian Medical Association v. V.P. Shantha and Ors., (1995) 6 SCC 651
37. Union of India v. K. V. Jankiraman (2011) 5 SCC 623
38. State of Punjab v. Devans Modern Breweries Ltd. (2004) 11 SCC 26
39. Association of Victims of Uphaar Tragedy v. Union of India (2011) 14 SCC 481:
40. Central Board of Dawoodi Bohra Community v. State of Maharashtra (2005) 2 SCC 673
41. Pradeep Nair, "A Critical Appraisal of Judicial Control over Administrative Action in India" (2013) 3 J Ind L Inst 178.

