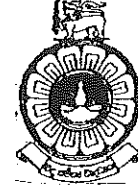


THE OPEN UNIVERSITY OF SRI LANKA
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME



LEVEL 5-2021/2022

LLU 5709/LWU 3311

ADMINISTRATIVE LAW

DURATION THREE (03) HOURS

DATE: 12th JANUARY 2023

TIME: 09.30 am-12.30 pm

Total Number of questions -08
Answer Five (05) questions only
Illegible handwritings will be penalized.

1. Geological Survey and Mines Bureau is a statutory body established under an Act of Parliament. The Bureau has powers *inter alia* to issue licenses for the exploration, mining processing, transport, trade and export of minerals. The Act stipulated the following provisions in relating to issuing license.
Section 29 (a) -The Bureau is empowered to issue a license only after obtaining a report from the Survey and Mines Board which is a statutory body established under the Act.
Section 29 (b)- No license to explore for, mine, transport, process, trade in or export any mineral shall be issued to an individual who is, a public officer or employee of any Provincial Council or a local authority.
Section 40- The decision of the Bureau is final and conclusive and cannot be challenged in any court of law.
Gamini, owner of a recently registered mineral exports company, forwarded an application to obtain a license for exploration and export of minerals in twenty acres of land belonging to him situated in Rosalla Pradeshiya Sabha. The Director of the Bureau rejected his application without giving any reasons. However, Gamini later discovered that the Bureau issued a license for the adjoin land which belongs to a chairman of Rosalla Pradeshiya Sabha contrary to the Section 29 of the Act.
Based on the provisions of the Act advise Gamini as to what remedies available to him.

Support your answer with reference to Administrative Law principles and decided cases. (20 marks)

2. (a) The exact limits of the writ of certiorari have never been absolutely determined. As of now, its scope significantly has increased and is firmly established in the law.

Discuss the recent developments with regard to the conditions which must be satisfied to obtain the writ of certiorari as laid down by Atkin L.J., in *R v Electricity Commissioners* case.

Support your answer with reference to decided cases. (15 Marks)

(b) Discuss the grounds on which Writs will not be issued by the courts. Support your answer with reference to decided cases. (05 Marks)

3. (a) Sahan was appointed as an English Language Assistant Teacher by the Secretary of the Educational Service Committee of the Public Service Commission with effect from 22.06.2020 to the Galkaduwa National School. A preliminary investigation was initiated against him on the basis of a complaint made by the secretary of the School Development Society. The Educational Secretary of Southern Province has appointed an inquiring committee to conduct a disciplinary inquiry against Sahan. The committee consisted of three members including the Principle of the Galkaduwa National School. The committee decided to hold an inquiry on 04.04. 2022. Sahan alleged that he saw the secretary of the School Development Society having a discussion with the chairman of the committee in his room on the date of inquiry. After the inquiry, the Educational Secretary of Southern Province issued a disciplinary order against Sahan. Based on this order Sahan's service was terminated with effect from 06.06. 2022. He was found guilty for eight charges out of twelve.

Discuss the legal consequences of the above scenario. Advise Sahan whether he could challenge the decision of the committee in a court of law.

(15 Marks)

(b) There are number of formulated tests that are applied to determine bias. Discuss the Sri Lankan judicial approach on applying these tests.

Support your answer with reference to decided cases. (05 Marks)

4. (a) Critically examine the controversial jurisdictional issues with regard to the issue of the order of Declaration in Sri Lanka. (05 Marks)

(b) "although the declaratory judgement has, in recent years, been employed more readily in administrative law, the remedy has not yet attained the pre-eminence in this field that its considerable advantages would seem to merit."

Do you agree with the above statement?

Examine the disadvantages of the remedies available in public law as to compare with a Declaratory order. (15Marks)

5. (a) Discuss the validity of the following directives.
Your answer should be supported with the Administrative Law principles and decided cases.

(i) The Parliament of Iceland enacted a National Broadcasting Authority Act to make legal provisions to regulate the broadcasting services in the country. Section 20 of the Act stipulates that every application for relief in respect of any cancellation of broadcasting license of a private broadcasting institution should be made to the Appeal Board within one month of the cancellation. The National Broadcasting Authority (NBA) which has been established under the above-mentioned Act made regulations contrary to section 20 of the Act that the applications should be made within two weeks of the cancellation.

(ii) Section 30 of the Customs Ordinance of Newland empowers the Director General of Customs to impose a charge on importing the electric vehicles when the cost exceeds eight million rupees. The Director General issued a directive increasing the above charge by 20 % with effect from October 2022.

(06x 2=12 marks)

- (b) '...The democratic safeguards which apply to a Legislature are absent in the case of delegated legislations. Hence, the need for some controls and safeguards in this area.'

M.P.Jain & S.N.Jain Principles of Administrative Law(6th edi. 2010)

Discuss with reference to the Administrative Law principles and decided cases.

(08 marks)

6. The Urban Council of Kosgoda has given powers inter alia to protect the natural resources and conservation of environmental riches of the area. The village of Kosgoda is located at the bank of both side of Kosgoda lake and the river. The residents of Kosgoda village have written to the Urban Council several times requesting them to attend the following matters.

- a) to completely ban the illegal soil filling and unauthorized or illegal construction at the bank of the river which have negative effects and seriously threaten the vitality of the Kosgoda lake system and its biodiversity.
- b) to take appropriate measures for preventing the unauthorized obstructions of Kosgoda River since wetlands around the river performs an invaluable function during heavy rains being a sponge to absorb rain water and drain it through the natural drainage system.
- c) to give quiet notices on the persons who are in unauthorized possession or occupation of the reservation areas of Kosgoda River.

However, to date, the Urban Council has not taken any steps to attend the above matters. The residents of Kosgoda consult you as to whether any legal action could be taken against the Urban Council.

Advise them. Support your answer with relevant legal authorities. (20 marks)

7. "In modern Administrative Law the concept of absolute discretion is unacceptable."
Gunatileka v Weerasena 2000 (2) Sri L.R 1

Discuss the above statement with reference to relevant principles developed by courts in controlling administrative discretion. (20 Marks)

8. Consumer Affairs Authority (CAA) is a statutory body established under an Act of Parliament of Sri Lanka. CAA has power to receive and inquire into complaints on a wide range of products and services. CAA is also empowered to inquire into complaints regarding the production, manufacture, supply, storage, transportation or sale of any goods and to the supply of any services which do not conform to the standards and specifications determined by the Authority. The Act stipulated the following.

(a) The CAA is empowered to grant compensations to consumers who are affected from defects in goods and services. Compensation could be granted only after obtaining an assessment report from the Advisory Committee which is a statutory body established by the Act.

(b) Section 12 of the Act declares that the Authority's decision in granting compensations is final and conclusive and cannot be challenged in any court of law.

A series of cooking gas explosions were reported in Sri Lanka. The Authority received complaints with regard to the composition of the gas in the cylinder. A compensation scheme was introduced by the Authority following the gas cylinder blasts.

Bandara, one of the victims of a cooking gas explosion forwarded an application to obtain compensation for reconstruction of his house which was partly damaged by the cylinder explosion. However, the Chairman of the Authority rejected his application without obtaining the report from the Advisory Committee. CAA said that his decision was final and conclusive.

Bandara consults you as to whether he could challenge the decision of the chairman before a court of law.

Advise him assuming that the Interpretation Act of Sri Lanka is similar to the Sri Lankan Interpretation (Amendment) Act No 18 of 1972. Support your answer with decided cases.

(20 marks)

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