



ශ්‍රී ලංකා විවෘත විශ්වවිද්‍යාලය  
මානව ශාස්ත්‍ර හා සමාජ විද්‍යා පීඨය  
නීති අධ්‍යයන දෙපාර්තමේන්තුව  
නීතිවේදී උපාධි පාඨමාලාව - 5 වන මට්ටම  
අඛණ්ඩ ඇගයීම් පරීක්ෂණය II - 2017/2018  
LLU5709/LWU3311- පරිපාලන නීතිය  
කාලය - පැය එකයි. (01)

දිනය - 2019.08.09

වේලාව - ප.ව.03.00 - ප.ව.04.00

එක් (01) ප්‍රශ්නයකට පමණක් පිළිතුරු සපයන්න.

අපැහැදිලි අත්අකුරු සඳහා ලකුණු අඩු කරනු ලැබේ.

01. අභිමතානුසාරී බලය එම බලය ලබාදී තිබෙන පුද්ගලයන් විසින්ම පමණක් පවත්වාගෙන යා යුතු අතර, ඔවුන් විසින් එම බලය අනිසි අවහිරතා හෝ සීමා කිරීම් වලින් තොරව බාධා රහිත ලෙස රඳවා තබාගත යුතුය.

*Sir William Wade and Cristopher Forsyth, Administrative Law, 10<sup>th</sup> Ed, p259*

ඉහත ප්‍රකාශය ඇසුරෙන් පහත සඳහන් මාතෘකා පිළිබඳව සාකච්ඡා කරන්න.

- (අ) අභිමතානුසාරී බලය යන්නෙහි අර්ථය (ලකුණු 05)
- (ආ) එම අභිමතානුසාරී බලය පාලනය කිරීමේ අවශ්‍යතාවය (ලකුණු 05)
- (ඇ) එම අභිමතානුසාරී බලය, අධිකරණය විසින් පාලනය කරනු ලබන ආකාරය (ලකුණු 10)

02. රාජ්‍ය විශ්වවිද්‍යාලයක අවසන් වසර ශිෂ්‍යයකු වන පියල්ට එරෙහිව, බාලිකා නේවාසිකාගාරයට බලෙන් ඇතුළුවීම, ශිෂ්‍යාවන් සමඟ අයුතු ලෙස හැසිරීමට උත්සාහ දැරීම සහ පොදු දේපළවලට හානි කිරීම යන චෝදනා ත්‍රිත්වය ගොනුකර තිබේ. සිද්ධිය සම්බන්ධයෙන් විශ්වවිද්‍යාලයේ ප්‍රධාන ආරක්ෂක නිලධාරියා දැනුවත් කළ අතර මෙම චෝදනා විභාග කිරීම සඳහා උපකුලපතිවරයා කමිටුවක් පත් කළේ ය. ජ්‍යෙෂ්ඨ කටිකාලාර්යවරුන් තිදෙනෙකුගෙන් සමන්විත පරීක්ෂණ කමිටුවේ එක් සාමාජිකයෙකු මෙයට පෙර පරීක්ෂණයක දී පියල් සමඟ බහින්බස් වීමක් ඇති කරගත් අයෙකි. පරීක්ෂණ කමිටුව විසින් ශිෂ්‍යාවන්ගෙන් ප්‍රකාශ සටහන් කර ගත්තේ ය. පරීක්ෂණ කමිටුව විසින් ඔවුන්ට පියල්ගේ ඡායාරූප පෙන්වූ අතර ඔවුන් ඒවා පරීක්ෂා කිරීමෙන් අනතුරු ව පියල්ගේ අනන්‍යතාවය හඳුනා ගත්තේ ය. සිද්ධිය සම්බන්ධයෙන් පැහැදිලි කිරීමක් ඉදිරිපත් කිරීමට කමිටුව පියල්ට ප්‍රමාණවත් කාලයක් ලබා නොදුනි. කරුණු දැක්වීම සඳහා වැඩිපුර කාලය ලබා ගැනීමට පියල් විසින් කළ ඉල්ලීම ද කමිටුව ප්‍රතික්ෂේප කර ඇත.

සාක්ෂිකරුවන්ගෙන් සාක්ෂි රැස් කර ගැනීමට කමිටුව විසින් අවසරය ලබා දී තිබූ නමුත්, එම සාක්ෂිකරුවන්ගෙන් හරස් ප්‍රශ්න ඇසීම සඳහා පියල්ට අවස්ථාවක් ලබා දී නොමැත. පරීක්ෂණයට පසුව උපකුලපතිවරයා පියල්ට දැනුම් දෙනු ලැබුවේ විශ්වවිද්‍යාලයීය විනය නීති සංග්‍රහය යටතේ පියල් වරදක් කර ඇති බව කමිටුව විසින් සොයාගෙන ඇති බවත් වහාම ඔහුගේ ශිෂ්‍යභාවය අත්හිටුවා ඇති බවත් ය.

අදාළ පරිපාලන නීති මූලධර්මවලට අනුව පරීක්ෂණ කමිටුව මෙම පරීක්ෂණය සිදුකර ඇති ද යන්න පිළිබඳව පියල් ඔබගේ උපදෙස් පතයි.

පියල්ට උපදෙස් දෙන්න. (ලකුණු 20)

හිමිකම් ඇවිරිණි.

**THE OPEN UNIVERSITY OF SRI LANKA  
FACULTY OF HUMANITIES AND SOCIAL SCIENCES  
DEPARTMENT OF LEGAL STUDIES  
LL.B. DEGREE PROGRAMME – LEVEL 5  
CONTINUOUS ASSESSMENT TEST II – 2017/2018  
LLU5709/LWU3311 – ADMINISTRATIVE LAW  
DURATION – ONE (01) HOUR.**



**Date: 09<sup>th</sup> August 2019**

**Time : 03.00 p.m. – 04.00 p.m.**

**Answer one (01) question only.  
Candidate will be penalized for illegible handwriting.**

01. “Discretionary power should be wielded only by those to whom it is given and that they should retain it unhampered by improper constraints or restrictions”.

*Sir William Wade and Cristopher Forsyth, Administrative Law, 10<sup>th</sup> Ed, P.259*

In the light of above statement, discuss the following;

- a) the meaning of discretionary powers. (05 marks)  
b) the necessity of controlling discretionary powers. (05 marks)  
c) the manner in which such discretionary powers are controlled by the judiciary. (10 marks)
02. Piyal a final year student in a Government University, was charged with three offences including intrusion into the girls’ hostel, trying to misbehave with female students and damaging some public property. The Chief Security Officer of the University was informed about this incident and the Vice Chancellor appointed a Committee of Inquiry to look into these allegations. The Committee consisted of three senior lecturers and one of whom had already had an argument with Piyal in a previous inquiry. The Inquiry Committee recorded the statements of the female students. They were shown some photographs of Piyal by the Inquiry Committee and they identified him after examining those photographs. Piyal was not given enough time to present his part of the incident or to defend himself before the Committee. His request to extend the time period for the inquiry was also rejected by the Committee. Even though the Committee gave permission to collect evidence from witnesses, Piyal was not given an opportunity to cross examine those witnesses. After the inquiry Vice Chancellor informed Piyal that the Committee had found him guilty of an offence under the Disciplinary Code of the University and he was suspended indefinitely with immediate effect.

Piyal seeks your advice as to whether the Inquiry Committee has conducted the inquiry in accordance with relevant principles of Administrative Law. Advice Piyal.

(20 marks)

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இலங்கை திறந்த பல்கலைக்கழகம்  
 மானுடவியல் மற்றும் சமூக விஞ்ஞானங்கள் பீடம்  
 சட்டக்கற்கைகள் திணைக்களம்  
 சட்டமாணி பட்டப்படிப்பு நிகழ்ச்சித் திட்டம் - மட்டம் 5  
 தொடர் மதிப்பீட்டுப் பரீட்சை II - 2017/18  
 LWU 3311/LLU 5709 - நிர்வாகச் சட்டம்  
 காலம் : ஒரு (01) மணித்தியாலம்

திகதி : 09.08.2019

நேரம் : பி.ப 03.00- பி.ப 04.00

தெளிவற்ற கையெழுத்திற்கு புள்ளிகள் குறைக்கப்படும்.

ஒரு (01) வினாவிற்கு மாத்திரம் விடையளிக்க.

1. "தற்றுணிபு அதிகாரம் ஆனது அது யாருக்கு வழங்கப்பட்டதோ அவர்களால் மட்டுமே கையாளப்பட வேண்டும் என்பதுடன், அவர்களால் அவை முறையற்ற மட்டுப்பாடுகள் அல்லது தடைகள் என்பனவற்றால் இடையூறு விளைவிக்கப்படாது தக்க வைக்கப்படவும் வேண்டும்."

*Sir William Wade and Cristopher Forsyth, Administrative Law, 10<sup>th</sup> Ed, P.259*

மேலுள்ள கூற்றின் அடிப்படையில் பின்வருவனவற்றை விளக்குக.

(அ) தற்றுணிபு அதிகாரங்கள் என்பதன் பொருள். (05 புள்ளிகள்)

(ஆ) தற்றுணிபு அதிகாரங்களைக் கட்டுப்படுத்துவதன் அவசியம். (05 புள்ளிகள்)

(இ) தற்றுணிபு அதிகாரங்கள் நீதித்துறையினால் கட்டுப்படுத்தப்படும் முறை. (10 புள்ளிகள்)

உமது விடையினை பொருத்தமான தீர்ப்புச் சட்டங்களால் ஆதாரப்படுத்துக.

2. அரசு பல்கலைக்கழகம் ஒன்றின் இறுதியாண்டு மாணவனான பியல் என்பவன், பெண்கள் விடுதிக்குள் நுழைந்தமை, பெண் மாணவிகளிடம் தவறான முறையில் நடக்க முயன்றமை மற்றும் சில பொது உடமைகளிற்கு சேதம் விளைவித்தமை போன்ற மூன்று குற்றங்கள் உள்ளடங்கலாக குற்றம் சாட்டப்பட்டான். பல்கலைக்கழகத்தின் பிரதான பாதுகாப்பு அதிகாரிக்கு இச்சம்பவம் குறித்து அறிவிக்கப்பட்டதுடன், அக்குற்றச்சாட்டுக்கள் தொடர்பில் விசாரிப்பதற்காக விசாரணைக் குழு ஒன்றையும் துணைவேந்தர் நியமித்தார். அக்குழு மூன்று சிரேஷ்ட விரிவுரையாளர்களை உள்ளடக்கி இருந்ததுடன், அதில் ஒருவர் முன்னைய விசாரணை ஒன்றில் பியலுடன் ஏற்கனவே வாக்குவாதப்பட்டிருந்தார். அவ்விசாரணைக்குழு பெண் மாணவிகளின் வாக்குமூலங்களை பதிவு செய்தது. அவர்களிற்கு விசாரணைக்குழுவால் பியலுடைய புகைப்படங்கள் சில காட்டப்பட்டதுடன், அப்புகைப்படங்களை ஆராய்ந்த பின்னர் அவர்கள் அவனை அடையாளம் காட்டினர். பியல் இச்சம்பவம் குறித்து தனது நிலையை குழுவின் முன்னர் முன்வைக்கவோ அல்லது தனது எதிர்வாதங்களை முன்வைக்கவோ போதுமான காலம் வழங்கப்படவில்லை. விசாரணைக்கான காலத்தை நீட்டிக்கக் கோரிய அவனது கோரிக்கையும் விசாரணைக்குழுவால் நிராகரிக்கப்பட்டது. சாட்சிகளிடம் இருந்து சான்றுகளை சேகரிக்க

**THE OPEN UNIVERSITY OF SRI LANKA**  
**FACULTY OF HUMANITIES AND SOCIAL SCIENCES**  
**DEPARTMENT OF LEGAL STUDIES**  
**LL.B. DEGREE PROGRAMME – LEVEL 5**  
**CONTINUOUS ASSESSMENT TEST II – 2017/2018**  
**LLU5709/LWU3311 – ADMINISTRATIVE LAW**  
**DURATION – ONE (01) HOUR.**



**Date: 09<sup>th</sup> August 2019**

**Time : 03.00 p.m. – 04.00 p.m.**

**Answer one (01) question only.**

**Candidate will be penalized for illegible handwriting.**

01. “Discretionary power should be wielded only by those to whom it is given and that they should retain it unhampered by improper constraints or restrictions”.

*Sir William Wade and Cristopher Forsyth, Administrative Law, 10<sup>th</sup> Ed, P.259*

In the light of above statement, discuss the following;

- a) the meaning of discretionary powers. (05 marks)
- b) the necessity of controlling discretionary powers. (05 marks)
- c) the manner in which such discretionary powers are controlled by the judiciary. (10 marks)
02. Piyal a final year student in a Government University, was charged with three offences including intrusion into the girls’ hostel, trying to misbehave with female students and damaging some public property. The Chief Security Officer of the University was informed about this incident and the Vice Chancellor appointed a Committee of Inquiry to look into these allegations. The Committee consisted of three senior lecturers and one of whom had already had an argument with Piyal in a previous inquiry. The Inquiry Committee recorded the statements of the female students. They were shown some photographs of Piyal by the Inquiry Committee and they identified him after examining those photographs. Piyal was not given enough time to present his part of the incident or to defend himself before the Committee. His request to extend the time period for the inquiry was also rejected by the Committee. Even though the Committee gave permission to collect evidence from witnesses, Piyal was not given an opportunity to cross examine those witnesses. After the inquiry Vice Chancellor informed Piyal that the Committee had found him guilty of an offence under the Disciplinary Code of the University and he was suspended indefinitely with immediate effect.

Piyal seeks your advice as to whether the Inquiry Committee has conducted the inquiry in accordance with relevant principles of Administrative Law. Advise Piyal.

(20 marks)

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குழு அனுமதி அளித்திருந்த போதும், அச்சாட்சியங்களை குறுக்கு விசாரணை செய்யப் பியலுக்கு அனுமதி அளிக்கப்படவில்லை. விசாரணையின் பின்னர் பல்கலைக்கழக ஒழுக்காற்றுக் கோவையின் கீழ் பியல் குற்றம் ஒன்றை புரிந்துள்ளான் என குழு கண்டறிந்துள்ளதாக துணைவேந்தர் பியலிற்கு அறிவித்ததுடன், உடனடியாக செயற்படுத்தப்படும் வண்ணம் அவன் கால வரையறையின்றி இடைநீக்கம் செய்யவும் பட்டான்.

பொருத்தமான நிர்வாகச் சட்ட கோட்பாடுகளிற்கு இணங்க விசாரணைக்குழு விசாரணையை மேற்கொண்டுள்ளதா என பியல் உமது அறிவுரையை நாடுகிறான். பியலிற்கு அறிவுரை வழங்குக. (20 புள்ளிகள்)

- பதிப்புரிமை பெற்றது -

