

PAPER 8: SPECIALISATION PAPER 2. PUBLIC UTILITIES LAW

Objectives:

Public utilities are government monopolies, which are services rather than commercial enterprises. The law of public utilities is contained in the statutes of incorporation and judicial decisions given by courts while resolving disputes between the utilities and their consumers or employees or traders or others entering into business relations with them. In this paper a student will study (a) government policy in regard to such utilities in general and to each utility in particular, (b) the growth and evolution of the public utilities; (c) patterns of the laws of incorporation and (d) powers, functions and liabilities of the public utilities vis-à-vis their employees, consumers and others. The following syllabus prepared with this perspective will be spread over a period of one semester.

Course Outcome:

On successful completion of the course the student will be able to –

1. analyse the role of public utilities which are government monopolies.
2. explore the utility of public enterprises which are services rather than commercial enterprises.
3. examine the role of Government Policy in regard to such utilities in general and to each utility in particular.
4. evaluate the growth and evolution of the public utilities.
5. examine the powers, functions and liabilities of the public utilities vis-à-vis their relation with employees, consumers and others.

Course content:

Unit I

Public Utilities: Railways, Electricity, Gas, Road Transport, telephone, post and telegraph service, Police, Fire Brigade, Banking service, etc. Growth and evolution of public utilities and their legislation.

Unit II

Why Government Monopoly? Government and Parliamentary Control; Constitutional division of power to legislate. Utilities Legislation – Patterns; Administrative Authorities - Structure of the Administrative Authorities; Subordinate legislation.

Unit III

Public Utilities and Fair Rearing; Quasi-Judicial Decision - Administrative Discretion; Public Utilities and Consumer Protection; Exclusion from M.R.T.P. Act; Rights of consumers protected by the Consumer Protection Act; Rights Arising from law of Contract and law of Torts.

Unit IV

Public Utilities And their Employees; Application of Articles 16 and 311; Application of Industrial law- right to strike; Public Utilities and Fundamental Rights; The right to equality: the airhostess case; are Public utilities "State" for the purpose of Article 12 of the Constitution? Extension of the concept of State.

Unit V

Liabilities and special privileges of public utilities; In contract; In tort; In criminal law

Select Bibliography:

1. P.M. Bakshi, Television and the Law, (1986)
2. Vasant Kelkar, "Business of Postal Service" 33 I.J.P.A. pp. 133-141 (1987)
3. G. Ramesh, "Characteristic of Large Service Organisation in a Developing Country like India" 32 I.J.P.A. 77 (1986)
4. Nalini Paranjpe, "Planning for Welfare in the Indian Railways" 31 I.J.P.A. 171-180 (1985)
5. Arvind K. Sharrna "Semi-Autonomous Enterprise: Conceptual Portrait - Further Evidence on the Theory of Autonomy" 33 I.J.P.A. p. 99-113.
6. S.P. Sathe, Administrative Law (1998)
7. Jain & Jain, Principles of Administrative Law, (1986)
8. Jagdish U, Handbook of electricity Laws, (1978)
9. Bhaumik, The Indian Railways Act, (1981)
10. Law Commission of India, 38th Report : Indian Post Office Act, 1898, (1968)
11. Students should consult relevant volumes of Annual Survey of Indian Law published by the Indian Law Institute (Constitutional Law I & II, Administrative Law, Consumers Protection Law and Labour law).