

Judicial Control Over Administrative Action in India: A Review of Constitutional Principles and Contemporary Relevance

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Abstract: *Judicial control over administrative action lies at the heart of India's constitutional democracy. It protects citizens from arbitrary or unjust decisions by public authorities and keeps the use of governmental power within legal limits. As the modern State expanded into welfare and regulatory roles, large discretionary powers were delegated to the administration, which made principled judicial oversight essential. Judicial control, most visibly through judicial review, tests administrative action for legality, reasonableness, and fairness. Articles 32 and 226 provide powerful writ remedies in the Supreme Court and High Courts. Article 136 allows the Supreme Court to correct grave injustice through special leave to appeal. The decision in Kesavananda Bharati v. State of Kerala (1973) affirmed that judicial review forms part of the Constitution's basic structure, so it cannot be removed even by amendment. At the same time, courts exercise restraint. They intervene when decisions are illegal, irrational, or procedurally unfair, but they do not replace administrative judgment on matters of policy or technical discretion. This paper expands the synopsis into a fuller review that remains faithful to the original lines of argument. It develops the constitutional foundations, the main tools of review, and practical reforms that can strengthen accountability while respecting efficient governance.*

Keywords: Judicial Review, Administrative Law, Basic Structure, Rule of Law, Writs, Separation of Powers, Accountability

1. Introduction

Judicial control over administrative action exists to ensure that public power is used for lawful purposes, by lawful means, and with due regard to individual rights. In a democracy under a written Constitution, courts act as guardians of legality. They keep the administration within the bounds set by Parliament and by the Constitution, and they provide remedies when those bounds are crossed.

The growth of the administrative State after independence created new institutions, new regulators, and new schemes for social justice and economic development. With this growth came a wider use of delegated legislation and a larger space for discretion. Judicial oversight stepped in not to micromanage administration, but to enforce constitutional values like fairness, equality before the law, and reasoned decision making.

This review takes a practical approach. It highlights what courts look for when they examine administrative action, why those checks matter for citizens and for the State, and how a better designed system can reduce litigation while improving public trust.

2. Constitutional Basis of Judicial Control

Judicial control rests on specific provisions that define both power and limits. Together they make the judiciary a constitutional check on administrative action, while keeping space for effective governance.

- Article 13 declares that laws inconsistent with fundamental rights are void. Administrative action that violates fundamental rights will not stand.
- Article 32 empowers the Supreme Court to issue writs for enforcement of fundamental rights. It is itself a

fundamental right, which reflects the centrality of remedies in constitutional design.

- Article 226 empowers High Courts to issue writs not only for fundamental rights but also for other legal rights. This makes High Courts the primary forums for controlling administrative action within their territories.
- Article 136 allows the Supreme Court to grant special leave to appeal in suitable cases. This extraordinary jurisdiction corrects serious injustice that may escape ordinary routes.
- Article 368 enables constitutional amendment, but the power is limited by the basic structure doctrine. Judicial review, rule of law, and separation of powers cannot be abrogated.

These provisions work together. High Courts are often the first port of call under Article 226, since they can reach both constitutional and statutory questions. The Supreme Court sets overall standards and ensures uniformity, using Articles 32 and 136 in appropriate cases.

3. Classification of Judicial Control

Courts use a range of tools to supervise administration. They differ in scope, speed, and the type of error they target, but they share one purpose, which is to secure lawful and fair governance.

The main avenues are:

- Judicial review of administrative decisions for legality and constitutionality.
- Statutory appeals created by legislation, which may re-examine facts and law depending on the statute.
- Writ jurisdiction under Articles 32 and 226, which provides swift constitutional remedies.

- Discretionary remedies, since relief is ordinarily equitable and tailored to the facts, except in habeas corpus where liberty is at stake.
- Preventive and corrective control, which either guides decision makers in advance or cures errors after they occur.
- Within writ jurisdiction, the classic writs serve distinct functions. Understanding those functions helps litigants choose the right remedy and helps courts target the right error.
- Habeas Corpus: secures personal liberty by ordering release from unlawful detention.
- Mandamus: compels a public authority to perform a duty imposed by law when it has failed to act.
- Prohibition: prevents a court or tribunal from acting outside its jurisdiction or in violation of natural justice.
- Certiorari: quashes an order of a lower court, tribunal, or authority when it is illegal, irrational, or procedurally unfair.
- Quo Warranto: questions the authority by which a person holds a public office and restrains usurpation.
- When courts review administrative action, they usually apply settled grounds of review. These grounds do not invite the court to sit in appeal on the merits, but to test whether the decision maker stayed within legal limits.
- Illegality: acting without jurisdiction, misdirecting oneself on law, or ignoring relevant legal constraints.
- Irrationality: a decision so unreasonable that no sensible authority would have reached it on the material before it.
- Procedural impropriety: breach of natural justice, such as failure to give a fair hearing or bias.
- Proportionality: ensuring that measures adopted are suitable, necessary, and balanced in relation to the aim.
- Legitimate expectation: protecting fairness where an authority has created a clear expectation through a promise, policy, or consistent past practice.

These grounds operate alongside the duty to give reasons. Reasoned decisions show that discretion has been exercised on relevant grounds and allow meaningful judicial oversight.

4. Integrity and Accountability in Administrative Governance

Integrity in governance is not only an ethical aspiration. It is a legal requirement that flows from equality, fairness, and the rule of law. Judicial control reinforces integrity by insisting that power is exercised transparently, for proper purposes, and with reasons that can be tested.

- Conformity with law: discretion must be guided by statute, policy, and constitutional limits.
- Reasoned orders: speaking orders enable parties to understand outcomes and enable review where necessary.
- Fair process: notice, disclosure of material, and an opportunity to be heard reduce error and increase acceptance.
- Equal treatment: like cases should be treated alike unless material differences justify a different result.
- Public interest: decisions should balance individual rights with societal goals in a principled way.

By reinforcing these expectations, judicial control fights corruption and favoritism, reduces arbitrary outcomes, and

builds public confidence. It also encourages better administration because clear standards help officials make defensible choices.

5. Research Integrity and Methodology

This review follows academic standards that emphasize clarity, accuracy, and transparency. Legal principles and case law are explained in plain language, with careful separation of doctrine and evaluation. Where the law is unsettled, the analysis acknowledges uncertainty rather than overstating claims.

The method is doctrinal and comparative. It synthesizes constitutional text, leading judgments, and standard treatises to present a coherent account of judicial control. The focus remains on India while drawing on common law reasoning where it illuminates core ideas.

6. The Doctrine of Basic Structure and Judicial Review

The basic structure doctrine, recognized in *Kesavananda Bharati v. State of Kerala*, marks a turning point in Indian constitutionalism. It holds that while Parliament can amend the Constitution, it cannot alter its essential features. Judicial review, separation of powers, and the rule of law are among those features.

This doctrine secures a permanent space for courts to test administrative action against constitutional standards. It also protects the ability of High Courts to exercise writ jurisdiction. Attempts to oust review by channeling disputes only to tribunals have been read down, so that supervisory jurisdiction of constitutional courts continues.

The effect is practical. Officials know that their decisions can be examined for legality and fairness, which encourages careful reasoning and fidelity to statutory purpose. Citizens know that an effective remedy exists when power is misused.

7. Judicial Restraint and Activism: The Balancing Imperative

Courts do not govern, they ensure lawful governance. The difference matters. Where a decision involves technical expertise, resource allocation, or competing policy choices, courts defer to the administration's primary role. Where a decision violates rights, ignores relevant factors, or breaches fair process, courts intervene.

Public interest litigation widened access to justice and gave voice to communities without easy access to courts. At the same time, it required discipline so that the extraordinary jurisdiction remains focused on clear illegality or systemic failure, not on everyday policy preferences.

The preferred position is balanced. Courts insist on legality, transparency, and reasonableness, but they avoid substituting their own judgment for that of administrators. This balance preserves both accountability and efficiency.

8. Challenges and the Way Forward

Judicial control can deliver greater impact if process costs are reduced and if administration internalizes constitutional standards. Several practical steps can help.

- Codify key administrative procedures, including notice, hearing, disclosure, and reasons, in sectoral statutes and model rules.
- Strengthen tribunal capacity through merit-based appointments, continuous training, and timely publication of reasoned orders.
- Adopt clear timelines for administrative decisions, with explanations when timelines cannot be met.
- Institutionalize transparency through proactive disclosure and accessible, searchable repositories of regulations, circulars, and decisions.
- Use technology for e-filing, virtual hearings where suitable, and document management that reduces delay and cost.
- Promote internal review and error correction within departments so that many disputes are resolved without litigation.
- Develop bench and bar capacity on administrative law, including regular workshops on standards of review and remedies.
- Encourage participatory rule making and stakeholder consultation to improve legitimacy and reduce future challenges.
- Publish impact assessments for major policies, so that choices can be debated on evidence and reviewed against clear objectives.
- Support legal literacy programs that empower citizens to seek timely remedies and to engage constructively with administration.

These measures reduce the need for litigation, improve the quality of first instance decisions, and focus judicial time on cases that genuinely require constitutional adjudication.

9. Conclusion

Judicial control over administrative action is a constitutional guarantee of lawful, fair, and accountable governance. It protects liberty and equality, and it steers discretion toward reasoned decision making. The aim is not to slow administration, but to make it better, more transparent, and more trusted.

The Constitution provides strong tools. Articles 32, 226, and 136 secure effective remedies. The basic structure doctrine ensures those remedies remain available. With measured restraint by courts and principled action by administrators, these tools can deliver justice at scale.

Reforms that codify procedure, improve capacity, and promote transparency will make judicial control both more predictable and more effective. Such reforms will help India meet the twin goals of rights protection and efficient governance.

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Adv. Sangeeta Hiralal Desarda, Advocate, Bombay High Court (Aurangabad Bench) | Co-founder, Arihant Law. Adv. Desarda has more than sixteen years of litigation experience across civil, criminal, family, and human rights matters. She is known for her integrity, clarity of argument, and commitment to public accountability. She was recognized with the India Women Icon Award in 2022 and continues to support initiatives aligned with the Sustainable Development Goals on justice and strong institutions.