

LEGAL REGIME OF RULE OF LAW PRINCIPLES WITHIN THE AMBIT OF LABOUR
JURISPRUDENC

Dr. Mukesh Kumar Ray

ABSTRACT

Rule of Law is the most basic concept that has become well known, and its relationship to administrative law is a topic of discussion in many places and at many levels. It's refers to the supremacy of law of the land over any other thing or person. Professor A.V. Dicey gave it. He said, "the rule of law means that the law is supreme over all other forms of authority in our society, and that no one may escape its force, whether or not those in power like it." In other simple words, Rule of Law means that every person has equal rights before law and there should be no discrimination between people on any grounds.

The definition of Rule of Law is based on three basic pillars example, Supremacy of Law, Equality before Law and Predominance of Legal Spirit. This is a system, which is adopted by India from British common law system of justice, and its roots found in British Jurisprudence. Judiciary has played a very important role in the development of shape of the Indian democracy as well as rule of law.

The Supreme Court, through its foremost judgments, taken a positive approach. By taking a dynamic view of the provisions of the constitution, the court ensured that the Rule of Law is enforced in its true spirit. The judiciary has been able to interpret the provisions of law in a way that it can be implemented without much fuss. The judiciary has also been able to enforce the rule of law by taking help of judicial activism. This is especially true for the Supreme Court which has taken up many cases that were beyond its jurisdiction but fell under the ambit of public interest.

Supreme Court of India preserves the idea of Rule of Law through the constitution of India as a part of basic structure theory. It can be inferred from the preamble and the very fact that it declares India as a sovereign state. After many years, courts have taken help of judicial activism to increase the scope of the rule of law through various provisions in the constitution. The judiciary is overburdened and outdated. The legislature is slow in enacting laws and making them applicable to the situations. There are a lot of problems with the enforcement of the rule of law in India.

Keywords:- Rule of Law, Equality, Fairness, Constitution, Judicial Activism, Supremacy of Law, Labour Law, Unfair Labour practice, Disciplinary process, employers, employees etc

INTRODUCTION OF RULE OF LAW:-

The criminal justice system is responsible for maintaining law and order in society by investigating, prosecuting, and punishing those who violate the law. The key components of the criminal justice system, including the courts, police, prosecution, and defence, work together to ensure that justice is served fairly and efficiently.

In a democratic society governed by the rule of law and guaranteed fundamental rights, administering criminal justice is indeed a challenging task. The criminal justice system must balance the need for public safety with the protection of individual rights and freedoms. This requires a system that is transparent, impartial, and accountable to the public.

One critical component of the criminal justice system is the subordinate judiciary. The subordinate judiciary consists of lower courts and judges who are responsible for hearing and deciding cases at the local level. These judges play a vital role in the administration of justice by interpreting the law, applying legal principles to individual cases, and ensuring that due process is followed. By upholding the rule of law, protecting individual rights, and ensuring public safety, the criminal justice system plays a crucial role in maintaining a just and peaceful society.

There is no doubt that the rule of law pervades the Constitution as an underlying principle. In fact, the Supreme Court of India has declared the rule of law to be one of the “basic features” of the Indian Constitution, so the principle cannot be taken away even by a constitutional amendment also. The rule of law is a fundamental principle that ensures that everyone is subject to the law, including the government and its officials.

The rule of law is essential for the functioning of a democratic society, as it provides predictability, stability, and accountability. It means that the law is above everyone, and nobody is above the law. Therefore, no one, including the government, can act arbitrarily or beyond the limits set by the law.

The Supreme Court of India has indeed declared the rule of law to be one of the basic features of the Constitution. In the landmark case of *Kesavananda Bharati v. State of Kerala*, the court held

that the basic structure of the Constitution, which includes the rule of law, could not be amended even by the Parliament by invoking its amending power under Article 368 of the Constitution.

The phrase “rule of law” is derived from the French phrase “la principe de legalite,” which means the principle of legality. The concept of the rule of law has been interpreted differently by renowned people in different countries. However, it generally refers to a system of government in which the law is supreme and not subject to the whims of individual people, including those in power. The interpretation of the rule of law can vary from country to country, and there may be differences in how it is implemented in practice. Nevertheless, the rule of law remains an essential principle that is crucial for ensuring the protection of individual rights and freedoms, maintaining social order, and upholding democratic values in any country.

Philosophers has been attempts to give a substantive definition, alike Plato and Aristotle around 350 BC. Plato wrote: “Where the law is subject to some other authority and has none of its own, the collapse of the state, in my view, is not far off; but if law is the master of the government and the government is its slave, then the situation is full of promise and men enjoy all the blessings that the gods shower on a state.” Likewise, Aristotle also endorsed the concept of Rule of law by writing that “law should govern and those who are in power should be servants of the laws.”

Aristotle's idea of the rule of law was that it should be guided by reason and the principles of natural justice, which are based on the inherent nature of things. He believed that laws should be formulated in a way that is consistent with the nature of human beings and the society in which they live. According to Aristotle, the rule of law should not be based on the arbitrary will of individuals or the government, but rather on the principles of reason and natural justice. This means that laws should be based on objective principles and should apply equally to everyone, regardless of their social status or political power.

Aristotle's ideas about the rule of law have influenced the development of legal systems throughout history. They have helped to shape the modern understanding of the rule of law as a principle that is based on reason, fairness, and equality before the law. Today, the rule of law is recognized as a fundamental principle of democratic societies and is essential for ensuring the protection of individual rights and freedoms.

The rule of law includes principles such as equality before the law, due process, transparency, accountability, and respect for human rights and dignity. These principles are designed to protect individuals against arbitrary use of power by the government or its officials. They are designed to protect the rights and interests of individuals and ensure that justice is done in a fair and impartial manner.

RESEARCH METHODOLOGY:-

The research paper has been written on the base of Doctrinal and Analytical method. All data has been collected from secondary sources and analyse prudently in the paper. The paper also includes the matter of the books, publication research, journals, historical information of both Rule of Law and Natural Justice Principle for applicability on Labour Law with respect of the topic. It is important to note that a theoretical study and the literature review based on secondary source of data. The lack of field work may limit the ability to test the validity of the legal propositions or questions presented in the paper. Doctrinal and Analytical methods and secondary sources of data is appropriate for a theoretical study on the principles of the rule of law and natural justice as applied to labor law. However, the limitations of a theoretical study should be considered when interpreting the conclusions presented in the paper, but in order to understand the principle and its application.

MEANING:-

The term Rule of Law formed reference in British Jurisprudence. The Rule of Law means that the law is supreme, and it applies equally to all people, regardless of their status, wealth, or power. It implies that no one is above the law, and all individuals, including government officials, must act in accordance with the law, irrespective of his rank and position. The Rule of Law also requires that laws are clear, consistent, and applied fairly and impartially. Rule of Law requires that no person should be subjected to harsh, uncivilized or arbitrary treatment. Rule of law is associated with the word law, which refers that man, or a society must not govern by a man or ruler but rather govern by Law.

The expression rule of law explains a state of affairs in which everything must be done according to law. It safeguards the citizens against individual supremacy, imposed arbitrary decisions. In other words, it is the reverse to tyranny, the antithesis of the rule of anarchy and fear.

Sir Edward Coke, the Chief Justice in James I's Reign was the originator of the concept. In a battle against the King, he maintained successfully that the King should be under God and the Law, and he established the supremacy of the law.

More ideas about rule of law was accepted and propounded by Professor A.V. Dicey in 1885. The theory became famous through his book titled 'The Law of the Constitution'. He had a theory that 'government should be based on principles of law and not men' and proved this by explaining its following three main pillars:-

Supremacy of Law:

The term 'Supremacy of Law' means the dominance and absolute power of law in the country. Law rules all the people including those framing the modalities for administering law. Professor A. V. Dicey believed that where there are scope of discretion, there will be arbitrariness. Hence, said that the law established in the court of law has to be enforced in the land and no person can take law in his or her own hands preventing arbitrary actions.

Equality before Law:

The term 'Equality before Law' means that the law should be administered in a just and fair manner. Every person, irrespective of his position or rank should be wide-open to the same law and procedure followed in the court of justice. In his word he said, "Every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen."

Predominance of Legal Spirit:

Professor Dicey believed that just forming the above two principles would not be enough and there has to be an enforcing authority to keep and maintain the law. He thought courts to be this authority. He propounded an impartial and independent judiciary, which is an important aspect for implementation of Rule of Law.

Therefore, rule of law means that the law rules, which is based on the principles of freedom, equality, non-discrimination, fraternity, accountability and non-arbitrariness. It is certain, regular and predictable, by using the word law in the sense of Just and Practice. In this particular sense, the rule of law is an idea. It is a modern name for natural law.

HISTORICAL PERSPECTIVE:-

In ancient India, the concept of the rule of law can be traced to be prevalent in the society during early Vedic period. References of it were found in scriptures such as Veda, Upanishad, Yagavalkya's Smriti, Manusmriti, Mahabharata (Maharshi Vyas), Ramayana and Kautilya's Arthashastra etc,

It provides "Law is the king of Kings. It is more relevant & appropriate. There is nothing higher than law. By the power the weak shall prevail over the strong and justice shall triumph." The concept of rule of law is invoked. It conveys the sense that the administration cannot exercise arbitrary powers and that it should function according to the principle of law. The concept of the rule of law is an animation of natural law and remains as a historical ideal, which makes a powerful appeal even until today to be ruled by law not by powerful man. Rule of law mandates that power must be made accountable, governed progressively just and equal, and state incrementally ethical.

Ideas about the rule of law have been also central to political and legal thought since 4th century B.C., when Aristotle distinguished "the rule of law" from "that of any individual." In 1748, the *Esprit De Lois* (the spirit of Laws) published in French Jurist Philosopher Baron De Montesquieu elaborated a doctrine of the rule of law that contrast the legitimate authority of monarchs with the caprice of despots. It has profoundly influenced western liberal thought.

In general, the rule of law implies that the creation of laws, their enforcement, and the relationships among legal rules are themselves legally regulated, so that no one—including the most highly placed official—is above the law. The legal constraints on rulers means that the Government is subject to the existing laws as much as its citizens are. A closely related notion is the idea of equality before the law, which holds that no "legal" person shall enjoy privileges under the provisions of law. In addition, the application and adjudication of legal rules by various governing officials are to be impartial and consistent across equivalent cases, made blindly without taking into consideration the class, status, or relative power among disputants.

Not only rule of law entail such basic requirements about how the law should be enacted in society, it also implies certain qualities about the characteristics and contents of the laws themselves. In particular, laws should be open and clear, general in form, universal in application, and known to all. Moreover, legal requirements must be such that people are able to

be guided, they must not place undue cognitive or behavioural demands on people compelling them to follow. Thus, the law should be relatively stable and determine requirements. Furthermore, the law should remain internally consistent in order to provide for legal ways to resolve contradictions that can be expected to arise.

Despite basic features, there is less acceptance & systematic formulation of the rule of law (Several attempts are made by the Jurists and political Philosophers). The idea that the law should contribute to beneficial of public.

MODERN CONCEPT OF RULE OF LAW:-

The modern concept of the Rule of Law is fairly wide and, therefore, sets up an idea for Government to achieve. This concept was developed by the International Commission of Jurists, known as Delhi Declaration, 1959, which was later on confirmed at Lagos in 1961.

According to the concept, Rule of Law implies that the functions of Government in a free society should be so exercised as to create conditions in which the dignity of man as an individual is upheld. For it not only recognition of certain civil or political, social, economic, educational and cultural conditions which are essential to the full development of his personality but the modern concept of rule of law is to create those circumstances in which the dignity of man can be protected. The modern concept of rule of law is to make Government effective in order to protect individual liberty.

The concept of rule of law in modern administrative laws almost identical as prevalent during early Vedic period with emphasis on supremacy of law, discretionary power, fairness and judicial independence.

As the object of rule of law is to protect individual liberty and to fulfil this object it can be taken many meanings. K.C. Davis gives seven principles or meanings of the term rule of law.

- Law and order
- Fixed rule
- Due process of law or fairness
- Observance of principle of natural justice

- Elimination of discretionary power
- Preference for Judges and Ordinary courts
- Judicial Review of administrative actions.

Professor Fuller, gave an elite thought on the rule of law, identifies eight principles as critical to law:

- Generality,
- Publicity,
- Prospectivity,
- Clarity,
- Consistency,
- Stability,
- Capacity to be performed, and
- Compliance by officials.

Professor Joseph Raz offers an account with a more institutional intervention. In addition to the virtues of stability, openness, and clarity as virtues of law and law-making, which have some cognates within Professor Fuller's principles.

- The independence and impartiality of the judiciary,
- Accessibility of courts, and
- Confined discretion of crime-preventing authorities.

RULE OF LAW IN THE CONSTITUTION OF INDIA:-

Rule of law found a space in the Constitution. Federal structure of the Indian Constitution is founded on certain fundamental principles. Undoubtedly, one of them being rule of law, which includes judicial review of arbitrary executive action. Each and every act which was in force before the enactment of our constitution were either amended or nullified after its enforcement. Our constitution plays an important part in the changes and growth in labour laws in India. The Fundamental Rights and Directive Principles of State Policy enshrined in Part III and Part IV mentions working class related benchmark laws.

Professor Albert Venn Dicey's rule of law has been adopted and incorporated in the Constitution of India. The Preamble itself enunciates the ideals of Justice, Liberty and Equality. In Part III of

the Constitution these concepts are enshrined as Fundamental Rights and are made enforceable. The Constitution is supreme and all the three organs of the Government, viz. Legislature, Executive and Judiciary are subordinate to and have to act in consonance with the Constitution. The doctrine of judicial review is embodied in the Constitution and the subjects can approach the High Courts and the Supreme Court for the enforcement of Fundamental Rights guaranteed under the Constitution. If the executive or the Government abuses the power vested in it or if the action is mala fide, the same can be quashed by the ordinary courts of law.

RELEVANCY OF PART III (ARTICLE 12 TO 35) ON LABOUR LAWS:

Part III (Article 12 to 35) of the Constitution of India is the most important benchmark for labour laws in India. Indian Constitution covers the fundamental rights of citizens. Including equality before the law, freedom of religion, prohibition of discrimination based on sex, caste, or place of birth, the abolition of untouchability, freedom of speech and expression, and prohibition of employment of children in factories.

Article 14 of the Constitution ensures equality before the law, and it is interpreted in labor laws as “equal pay for equal work.” However, there are certain exceptions based on physical ability and the distinction between skilled and unskilled labor, where payment can vary according to merit. The Supreme Court, in the case of Randhir Singh vs Union of India, acknowledged that although the principle of “equal pay for equal work” is not explicitly defined in the Constitution, it is a goal to be achieved through Articles 14, 16, and 39(c) of the Constitution.

Article 19(1)(c) guarantees citizens the right to form unions or associations. The Trade Union Act, 1926 operates under this article, enabling workers to form trade unions. Trade unions play a crucial role in advocating for workers' rights, discussing labor-related issues with employers, and organizing strikes, among other activities.

Article 23 of the Constitution prohibits forced labor. During British rule, forced labor was prevalent in India, but it is now illegal and punishable under the law. The Bonded Labour (Abolition) Act, 1976 explicitly prohibits bonded labor in all its forms.

Furthermore, Article 24 of the Constitution prohibits all forms of child labor. It states that no child under the age of 14 can be employed to work. Child labor has been a significant problem in

the past, and although it still exists to some extent, strict penalties are imposed to deter its practice.

RELEVANCY OF PART IV (ARTICLE 36 – 51) ON LABOUR LAWS:

The DPSPs serve as guiding principles for the state and aim to promote the welfare of its citizens. While these principles are not enforceable in a court of law, they provide a roadmap for the legislature to formulate laws and policies, including labor laws.

Article 39 (a) -The article emphasizes the right to an adequate means of livelihood for all citizens, without discrimination based on sex. This means that both men and women have the right to earn a livelihood on equal terms.

Article 39 (d) -Article directs the state to work towards ensuring equal pay for equal work, irrespective of the worker's gender. It emphasizes that wages should be determined based on the amount of work performed, rather than being influenced by gender.

Article 41 -Article recognizes the "Right to Work", stating that every citizen has the right to employment. The state is expected to make efforts, to the best of its abilities, to secure this right along with the right to education.

Article 42 -Article focuses on improving working conditions for workers, including the creation of humane and suitable workplaces. It also highlights the provision of maternity relief, which grants women leave during pregnancy.

Article 43 -Article emphasizes the concept of a "Living Wage" for citizens. This entails not only fulfilling the basic necessities of life but also ensuring social and cultural upliftment, as well as access to education and insurance.

Additionally, the state is encouraged by the DPSPs to create opportunities in the fields of agriculture and industries, with a particular emphasis on cottage industries. This reflects the aim to promote economic growth, employment generation, and the development of rural and small-scale sectors.

All rules, regulations, ordinances, bye-laws, notifications, customs and usages are 'laws' within the meaning of Article 13 of the Constitution and if they are inconsistent with or contrary to any of the provisions thereof, they can be declared ultra vires by the Supreme Court and by High Courts. The President and the Judges of the Supreme Court and High Courts are required to take an oath to preserve, protect and defend the Constitution.

Article 14 ensures that all citizens are equal and that no person shall be discriminated on the basis of sex, religion, race or place of birth, finally it ensures that there is separation of power between the three wings of the government and the executive and the legislature have no influence on the judiciary. Article 14 has two dimension:

- Equality before Law- is taken from England, all are equals before law
- Equal protection of Law- is taken from United State of America, equality among the equals

Article 21 stating that no person shall be deprived of his life or personal liberty except according to procedure established by law or in other way his property save by authority of law. Executive and legislative powers of States and the Union have to be exercised in accordance with the provisions of the Constitution. Government and public officials are not above law. The maxim ‘The King can do no wrong’ does not apply in India. There is equality before the law and equal protection of laws. Government and public authorities are also subject to the jurisdiction of ordinary courts of law and for similar wrongs are to be tried and punished similarly. They are not immune from ordinary legal process nor in any provision made regarding separate administrative courts and tribunals. In public service also the doctrine of equality is accepted. Suits for breach of contract and torts committed by public authorities can be filed in ordinary law courts and damages can be recovered from State Government or Union Government for the acts of their employees. Thus, it appears that the doctrine of rule of law is embodied in the Constitution of India, and is treated as the basic structure of the Constitution.

In spite of such apparently enviable position of subjects, in almost all the fields of industry, commerce, education, transport, banking, insurance, etc. there is interference by administrative authorities with actions of individuals, companies and other corporate and non-corporate bodies, observes Justice Ramaswamy. From the Constitutional point of view there is large-scale delegation of legislative and judicial powers to these administrative authorities. These authorities have been extending their tentacles into social, economic and political domains. Wide discretionary powers are conferred on these administrative authorities. For the purpose of national planning, the Executive is armed with vast powers in respect of land ceiling, control of basic industries, taxation, mobilization of labour, etc. Further, it is also erroneous to believe that individual liberty can be protected only by the traditional doctrine of rule of law. Experience shows that not only the Executive but even Parliament elected by the people may pass some

demonic statutes like the Preventive Detention Act, or Maintenance of Internal Security Act, 1971 (MISA), National Security Act, 1980 (NSA) and encroach upon the liberty of subjects. Ultimately, as Prof. Harold Laski says: "Eternal vigilance is the price of liberty" and not a particular principle or doctrine of law.

Thus, Rule of Law doctrine is a complicated and demanding criterion for evaluating the legitimacy of governance in any state. Nevertheless, it cannot be a ground to ignore it if benefits of a Constitutional democracy are to be secured for the present and future generations of people. Recent aggressive judicial activism can only be seen as a part of the efforts of the Constitutional codes in India to establish a Rule of Law society which implies that no matter how high a person may be, the law is always above him. Court is also trying to identify the concept of rule of law with human rights of the people. The court is developing techniques by which it can force the government not only to submit to the law but also to create conditions where people can develop capacities to exercise their rights properly and meaningfully. The public administration is responsible for effective implementation of the rule of law and Constitutional demands which effectuate fairly the objective standards laid down by law. An every public servant is a trustee of society and is accountable for due effect creation of Constitutional goals. This makes the concept of rule of law highly relevant to our context.

Thus, the concept of Rule of Law has all the merits, the only negative side of the concept is that respect for law degenerates into the legalism from which its very rigidity works injury to the nation.

RULE OF LAW AND INDIAN JUDICIARY:-

The Indian Judiciary has played an instrumental role in shaping Rule of Law in India. By adopting a positive approach and dynamically interpreting the constitutional provisions, the courts have ensured that the Rule of Law and respect for citizens' rights do not remain only on paper but it is also available in the society.

The term rule of law can be used in two senses:-

- Formalistic sense
- Ideological sense

If used in the formalistic sense, it refers to organized power as opposed to a rule by one man and if used in an ideological sense it refers to the regulation of the relationship of the

citizens and the government and in this sense, it becomes a concept of varied interest and contents.

In its ideological sense, the concept of rule of law represents an ethical code for the exercise of public power in any country. Strategies of this code may differ from society to society depending on the societal needs at any given time, but its basic postulates are universal covering all space and time. These postulates include equality, freedom and accountability.

Equality is not a mechanical under negative concept but has progressive and positive contents which obliged every government to create conditions; Social, economic, and political, where every individual has an equal opportunity to develop his personality to the fullest and to live with dignity.

Freedom postulates absence of a very arbitrary action, free speech, expression and association, personal Liberty, and many others. These basic rights of any society may be restricted only on the ground that the claims of these freedoms would be better by such circumscription.

Rule of law permeates the entire fabric of the Constitution and indeed forms one of its basic features. The necessary element of rule of law is that the law must not be arbitrary or irrational and it must satisfy the test of reason. Khanna J, has stated, “rule of law is the antithesis of arbitrariness. Rule of law is now the accepted norm of all civilized societies.”

A significant derivative from rule of law in the sphere of administrative law is judicial review of administrative action to ensure that the administration acts according to law.

Absence of arbitrary power is the first essential of rule of law upon which our whole Constitutional system is based. Rule of law may be said to be the sworn enemy of caprice. The Supreme Court put a stamp of approval on the observations made by Douglas J, “Law has reached its finest moments when it has freed man from unlimited discretion of some ruler... where discretion is absolute, man has always suffered” and Lord Mansfield who stated in the classic terms, “Discretion means sound discretion guided by law. It must be governed by rule, not humor, it must not be arbitrary, vague and fanciful.”

The basic concept of the rule of law is not well-defined legal concept. The courts generally would not invalidate any positive law on the ground that it violates the contents of the rule of law. However, in *ADM Jabalpur v. Shivakanth Shukla*, popularly known as habeas corpus case, an attempt was made to challenge their detention orders during the emergency on the ground that

it violates the principles of the rule of law as the 'Obligation to act in accordance with the rule of law.... a central feature of our Constitutional system and is a basic feature of the Constitution.' Though the contention did not succeed and some justices even went on to suggest that during an emergency, the emergency provisions themselves constitute the rule of law, yet if the reasoning of on the fight opinions is closely read, it becomes clear that the contention was accepted, no matter it did not reflect in the final order passed by the court. Therefore, despite the unfortunate order to the effect that the doors of the court during an emergency are completely shut for the detenus, it is gratifying to note that the concept of the rule of law can be used as a legal concept.

In the opinion of some of the judges constituting the majority in case of a *Keshavanandabharati v. State of Kerala*, The rule of law was considered as an aspect of the doctrine of basic structure of the Constitution which even the plenary power of parliament cannot reach to amend.

In *Indira Nehru Gandhi v. Raj Narain*, in which the Supreme Court invalidated clause 4 of Article 329-A inserted in the Constitution by the 39th Amendment Act 1975. To immunize the election disputed to the office of the Prime Minister from any kind of judicial review, Khanna and Chandrachud J. held that Article 329 A violated the concept of basic structure.

Rule of law under the Constitution serves the needs of people without undoubtedly infringing their rights. It recognizes the social reality and tries to adjust itself from time to time avoiding authoritarian path. Rule of law under the Constitution has the glorious content. It embodies the concept of law involved over the centuries. Doctrine of equality before the law is necessary corollary to the high concept of rule of law accepted by our Constitution. One of the aspects of rule of law is that every executive action if it operates to the prejudice of any person, must be supported by some legislative authority.

Under our Constitution the rule of law prevails over the entire field of administration and every organ of the state is regulated by the rule of law. In a welfare state it is inevitable that jurisdiction of administrative bodies is increasing by a rapid rate. The concept of rule of law would lose its vitality if instrumentalities of the state are not charged with the duty of discharging their function in a fair and just manner.

Rule of law requires that any abuse of power by public officers should be subject to control of Courts. Principles of rule of law and the due process are closely linked with human rights protection. Such rights can be protected effectively when a citizen has recourse to the courts of law. Failure to accord fair hearing either to the accused or prosecution violates even minimum standards of due process of law.

Binding character of judgments pronounced by courts of competent jurisdiction is essential part of rule of law. Rule of law is obviously such basis of the administration of justice at which Constitution lays so much emphasis.

Wisdom of issuing executive instructions in the matters which are governed by the provisions of law is doubtful. Even if it be considered necessary to issue instructions in such a matter, instructions cannot be so framed or utilized so as to override the provisions of law will stop such a method will destroy the very basis of rule of law and strike at the very root of orderly administration of law.

The rule of law is basic rule of governance of any civilized polity. The scheme of Constitution of India is based on the concept of rule of law. Everyone whether individually or collectively is unquestionably under the supremacy of law. It is only through the courts that rule of law unfolds its contents and establishes its concept.

Obligation to act fairly on the part of administrative authorities was evolved to ensure rule of law and to prevent failure of justice. This is a doctrine which the quasi-judicial, authorities are also bound to observe.

The High Court is required to enforce rule of law, it therefore cannot pass order or direction contrary to what has been enjoined by law.

In *Indira Sawhney II v. UOI*, the Supreme Court criticized the approach of the government and held that governments today tend to violate rule of law as a matter of political convenience so that burden of striking down unconstitutional provisions passed to the court. Such an approach of the government was deprecated.

Our Constitution envisages a rule of law and not a rule of men. It recognizes that, howsoever high one maybe, he is under the law and the Constitution. All the Constitutional functionaries must, therefore, function within the Constitutional limits. In a system governed by rule of law,

there is nothing like absolute or unbridled power exercisable at the whims and fancies of the repository power. There is nothing like a power without any limits or constraints. That is so even when a court or other authority may be vested with wide discretionary power, for such discretion has to be exercised only along well recognized and sound juristic principles with a view to promoting fairness, inducing transparency and aiding equity.

Thus, the concept of rule of law in India is duly recognized by the Constitution and is firmly established by judicial pronouncements.

SUMMATION:-

The significance of the rule of law in India and its connection found in British jurisprudence. The framers of the Indian constitution acknowledged the importance of the rule of law and incorporated it into the Fundamental Rights and Directive Principles. However, the full implementation of the rule of law in India has faced challenges such as outdated legislation and an overburdened judiciary.

The judiciary in India has played a crucial role in upholding the rule of law by reinforcing the mechanisms established in the Constitution to ensure justice for the people. The aim of the judiciary is to establish the supremacy of law and integrate the rule of law with human rights, making it accessible to all individuals. The government has the responsibility to effectively implement the rule of law through constitutional provisions that adhere to the standards set by the law and the judiciary.

Government officials holding public power are entrusted as trustees of society and are accountable for achieving national goals. While the concept of the rule of law encompasses numerous merits, one potential negative aspect is that excessive adherence to legalism can undermine respect for the law and be detrimental to the nation.

The Principle of Judicial Review has been firmly established and developed by the Supreme Court of India, emphasizing that it cannot be amended, curtailed, or removed by the government. The Constitution of India embraces four basic principles of the rule of law: equality before the law, equal protection of the law, exclusion of arbitrariness, and the supremacy of the judiciary. Discretionary powers granted to authorities are necessary for governing society, but their misuse can undermine the basic principles of the rule of law. It is essential for the judiciary to control

such misuse, and the interpretation of constitutional law through harmonious construction can help strike a balance between discretion and the rule of law.

In examples where the Indian judicial system has upheld the rule of law and ensured justice, such as through Public Interest Litigation (PIL) pleas addressing human rights violations and the judiciary's intervention in matters related to the sovereign functions of the government.

Additionally, Acharya Kautilya (also known as Chanakya) as the originator of the concept of the rule of law in India. He advocated for the supremacy of the law over the legislature and executive, stating that the king should be subject to God, Rajya-Dand, and the Law. Following independence, the Indian constitution was considered the supreme law of the land, and the proper and honest functioning of each government organ is crucial for the unqualified implementation of the rule of law in India. In addition, the importance of the rule of law in India, acknowledges the challenges faced in its implementation, and highlights the role of the judiciary in upholding and integrating the rule of law with human rights and constitutional principles.