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SIGNIFICANCE OF THE PRINCIPLE OF ULTRA VIRES IN ADMINISTRATIVE LAW

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The principle of ultra vires followed in Administrative Law basically is a principle of Company Law which has been adopted in Administrative Law in the context of determining the validity of the actions of administrative agencies. In Company Law, the principle of ultra vires since good old days has been applied to test the actions of the companies whether they are in accordance with the charters, commissions or memorandum of association under which the companies were established. The general rule in company matters has been that a company incorporated with certain objects can exercise its powers to attain those few objects only in which case the action of the company which is within the scope of its authority is regarded as 'intra vires'. If the company does something which is outside the scope of the authority of the company then the action of the company is regarded as 'ultra vires'. For example, a company incorporated with objects A, B and C cannot enter into a contract to do something classified as object D. If the company does this then the company would be regarded as acting 'ultra vires' because its action is considered to be outside the scope of the authority of the company.

Company Law is an aspect of Private Law and Administrative Law is an aspect of Pub-

lic Law, but like several other principles of Private Law the principle of Ultra Vires is followed in Public Law as well, and this is done for the purpose of examining the validity of the action of the administrative agencies with reference to the authority by which the company has been constituted. The general principle governing the actions of the companies is that a company is supposed to follow the principles by which it has been given certain powers and is supposed to follow the procedures which have been prescribed in regard to various transactions. On the same analogy, if the action of the administrative agency is outside scope of the authority given to it by basic law governing the administrative agency then the action of the administrative agency would be declared as 'ultra vires'. Just as in the case of a company the question pertaining to the validity of the action of a company would upon the interpretation of the authority embodied in the company's charter or memorandum of association, in the case of an administrative agency also the principle of association, in the case of an administrative agency also the principle of ultra vires has its relevance to determine the validity of the action of administrative agencies.

The object of this article is to highlight the significance of the principle of ultra vires in Administrative Law. Reference is made to the cases decided by the Indian and foreign courts in the matter of determining the validity of administrative action on the touchstone of the principle of ultra vires.

I. Salient Features of the Principle of Ultra Vires:-

This Principle has the meaning that the action of the administrative agency must satisfy the requisites of legality. Firstly, the agency should be the one which is empowered by law to do a certain thing; if it is not the one which is mandated to do so; the action of the administrative agency is declared to be ultra vires. Secondly, the action of the administrative agency