BASIC PRINCIPLES OF ADMINISTRATIVE LAW
Separation of powers is the division of the powers and functions of government among the three separate arms of government, that is, the legislature, executive, and the judiciary.
Division Of Powers

- **Legislative powers** ..... powers by the **legislature**, which is the body **responsible for law making**.

- **Executive powers** ..... powers exercisable by the **executive organ of government** in performing particular **act** or giving particular **order** or making **decisions** generally in relation to particular statutory duties **within their competence**.

- **Judicial powers** ..... exercised when there is an existing **dispute lis inter partes** (**conflict among people**) between two or more parties ....
Division Of Powers

- The legislature has legislative powers to make laws for the country...
- The executive has powers to formulate policies, implements and enforce the law...
- The judiciary interprets the laws and adjudicates over matters brought before it.
The legislature gives powers to other persons or bodies to make necessary laws as applicable. These laws made by the administrative bodies, agency or authority in exercise of the powers given or delegated to them by the constitution or enabling statutes, which is referred to as delegated legislation.

Examples of these are byelaws, orders, regulations by local governments, departments, corporations and agencies.

BUT “Delegatus non potest delegare”.... a delegate may not sub-delegate his/her authority, power or functions to another person, authority, body or agency.
Let Us Reframe.....

The **functions and powers vested on administrative authorities and public officers are conferred on them by .....**

- The constitution... the supreme law of the land
- By an act of parliament.... state laws or charter establishing such public authority, body agency or corporation.
- A subsidiary legislation or delegated legislation..... made pursuant to the Act of parliament, thus conferring the said power.

Example: The Development Planning Act (ACT OF PARLIAMENT) gives the power to the Planning Authority (PUBLIC AUTHORITY) to issue development permits
WHAT IF a piece of land purportedly ‘expropriated’ for public purpose but in actual fact transferred to a private business man?
Definition Of ‘administrative law’

NO UNIVERSAL DEFINITION
Some Thoughts about ‘What Is Administrative Law?’

- Administrative law deals with the decision making of administrative units of government (for example, tribunals, boards or commissions) that are part of a national regulatory scheme in such areas as police law, planning, environment, transport.....
Some Thoughts about ‘What Is Administrative Law?’

- H. W. R. Wade in his book “Administrative Law,” eighth edition, argued that administrative law is concerned with the operation and control of the power of administrative authorities with emphasis on functions rather than structure.

- He went further, stating that: “Administrative law is the law relating to the control of governmental powers.”

- So, Administrative law is concerned with how to confine administrative bodies to their legal role and limit.

- So, it is a branch of law that aims at keeping the powers of government within the citizen against their abuse, and where abused, to provide remedy to the aggrieved citizen.
Peter Leyland and Gordon Anthony: It is regarded as the area of governmental powers, which originate in primary legislation or in the prerogative. It embodies general principles which can be applied to the exercise of the powers and duties of authorities in order to ensure that the myriad of rules and discretionary powers available to the executive conform to basic standards of legality and fairness.
Some Thoughts about ‘What Is Administrative Law?’

- ...the administrative authorities are given various tasks to execute in accordance the primary duty of each establishment, organisation or body.

- In discharging their duties, they are vested with **wide powers** some of which are **discretionary** but must be exercised within the purview of the statute, byelaw or any legislation conferring such powers on them...

- So, **administrative law is the law, which keeps the powers of government within the legal bounds** in order to protect the citizen against the abuse of power and where abused, to provide the remedy for the aggrieved person
Some Thoughts about ‘What Is Administrative Law?’

- The functions entrusted to administrative bodies, that is, public officers and administrative authorities are many. Their powers are often great.

- Administrative law regulates government or administration such that the agencies do not arbitrarily exercise their powers or exceed them. This means that the laws play vital roles in administration.

- Administrative law acts as a check in respect of the unlawful exercise or abuse of governmental administrative power.
The Way Forward....

Administrative law must therefore observe the rule of natural justice.
Concisely natural justice means: The **inherent right** of a person to a **fair and just treatment** *in the hand of rulers*, their agents and other persons.

It embodies principles that facilitate good administrative practice.

For instance, **the two rules of natural justice** that a man cannot sit on his own case (*Nemo Judex in Causa Sua*) and that no man can be condemned unheard (*Audi Alterem Partem*).

**Example:** a taxi driver cannot be deprived of his licence to operate at an Airport because of an alleged misconduct without first being given a chance to put his side of the case.