PRINCIPLES OF DELEGATED LEGISLATION IN INDIA: A CASE STUDY

Mohd Ammaar, Jamia Millia Islamia

Baby Fatma, Jamia Millia Islamia

Introduction

"Subordinate Legislation is that which proceeds from any authority other than the sovereign power"

….Sir John Salmond

The contemporary administrative state, with its expanding duties and complexities of modern governance, increasingly depends upon the exercise of delegated legislation. The Parliament, in order to meet the demands of good governance, often transfers to the executive or administrative agencies the authority to create rules, regulations, and orders that give detailed effect to legislative intent. While this ensures flexibility, responsiveness, and administrative efficiency, it simultaneously raises a constitutional dilemma: the tension between democratic accountability and administrative necessity. The very premise of a democratic system is that laws are enacted by a body directly responsible to the people through their elected representatives. When such law-making authority is conferred upon unelected officials, the doctrine of separation of powers and the principle of representative responsibility appear to be undermined.

Delegated or subordinate legislation refers to the transfer of legislative authority by the legislature to the executive or other subordinate bodies, empowering them to make rules and regulations within the framework of a parent statute. These bodies are not empowered to enact primary laws but can frame detailed provisions necessary for implementing legislative policy. In the 21st century characterised by industrialisation, technological advancement, and complex social structures, delegated legislation has become indispensable, facilitating timely adaptation of laws to emerging needs and thereby reducing the legislative workload. This pragmatic necessity, however, must be weighed against the constitutional imperative of maintaining the rule of law and the integrity of legislative power.

The Constitution of India does not explicitly authorise delegated legislation, yet it permits it by implication through its structural design of separation of powers and checks and balances. Articles **245**[1] and **246**[2] confer legislative competence upon Parliament and State Legislatures, while the judiciary interprets and enforces the limits of such delegation. The Supreme Court in *Kesavananda Bharati v. State of Kerala* (1973)[3] reaffirmed that the separation of powers and supremacy of the Constitution constitute part of the basic structure of the Constitution, thereby restraining any branch from encroaching upon the essential functions of another. Nonetheless, delegation of legislative power is not a post-independence innovation. It was practised during the colonial era, when the Crown or the Governor-General issued regulations and orders later ratified by the British Parliament or the Privy Council, functioning as early forms of delegated legislation in India[4].

The classic judicial exposition of permissible limits on delegation came in *In re: The Delhi Laws Act, 1912* (1951), where the Supreme Court clarified that while the legislature may delegate ancillary or subordinate functions to the executive, it cannot delegate its essential legislative function, namely, the power to repeal or modify existing laws[5]. The legislature must lay down the policy, principle, and framework, leaving only the operational details to the executive. Thus, the delegation of legislative power cannot amount to abdication of responsibility but must operate within defined constitutional boundaries.

Recent developments reaffirm the continuing constitutional tension in this area. For instance, the **UGC Guidelines, 2025**, which function as delegated legislation, have sparked debate over whether the University Grants Commission can override state legislation in matters of higher education[6]. Likewise, in *Dibakar Patra v. State of Odisha & Anr.* (2025), the Court observed that rules framed by the High Court under Article 309 read with Articles 233–235 of the Constitution constituted delegated legislation and, therefore, enjoyed a presumption of constitutionality. The Court pertinently noted that "a piece of subordinate legislation made by the delegate from the experience gained through the years cannot be struck down by a stroke

[1] The Constitution of India, Art. 245.
[2] The Constitution of India, Art. 246.
[3] Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225, 638.
[4] Dr.Shridevi "Delegated Legislation under Indian Constitution," International Journal of Advanced Engineering and Management, available at: https://ijaem.net/issue_dcp/Delegated%20Legislation%20under%20Indian%20Constitution.pdf
[5] In re: The Delhi Laws Act, 1912, 1951 SCR 747, 843.
[6] K. Ashok Vardhan Shetty, "UGC regulations or State university laws?," The Hindu, Jan. 21, 2025.

of pen. An argument to the contrary runs counter to the constitutional jurisprudence of at least half a century[7]."

In essence, delegated legislation has evolved as both a constitutional necessity and a constitutional challenge. It embodies administrative practicality and functional flexibility but demands vigilant judicial oversight to prevent legislative abdication and executive overreach. The principle of delegated legislation in India, therefore, rests upon a delicate balance between efficiency and accountability, delegation and democracy, administration and constitutionalism.

Research Questions

1. What are the constitutional and jurisprudential foundations of the practice of delegated legislation in India?

2. What is the evolution of the concept of excessive delegation and what are the leading approaches adopted by courts in assessing the validity of a delegated legislation?

3. What is the contribution of administrative and parliamentary control in aiding the judicial control of delegated legislation.

4. How does a particular case study with its peculiar facts and legal problems demonstrate the application of these principles and the court's approach to equity in the exercise of legislative power and administrative needs?

Scope of the Research

This article provides a thorough review of the Indian law of delegated legislation. The research is largely doctrinal, based on a huge collection of judicial statements, constitutional provisions, and legal writings. It will chart the development of delegated legislation in India from preindependence to contemporary times with special reference to the post-1950 constitutional regime. The article will give a thorough analysis of the principles enumerated by the Supreme Court and High Courts. Even though the limelight is on the broad principles, the article will take up a case study so as to give a real-life example of the legal principles in practice. The

[7] "Orissa High Court Quashed Permanent Debarment Order From Government Employment Against Candidate," Live Law, June 25, 2025.

ambit of this study will be restricted to the Indian context and will not cover comparative legal systems, except when deemed necessary in contexts of contextualizing basis principles.

Significance of the Study

The importance of this research is its contribution to a better understanding of one of the most vibrant and controversial fields of public law. The mere quantity and intricacy of the delegated legislation immediately, concretely affect individuals' lives, from economic life to social welfare. Discussion of the principles underlying the practice is worthwhile both for legal scholars and policymakers. Through critical examination of the judicial function and parliamentary mechanisms of safeguard, this article tries to de-mystify the virtues and limitations of the existing system of control. Case study shall also elucidate the functional issues and jurisprudential subtleties involved in judicial review of delegated powers, making the theoretical principles clear and relevant.

Hypothesis

Indian judiciary, in its interpretation of the constitutional provisions and the uniform application of the doctrine of non-delegability, has been able to take the role of the premier check on the legislative powers of the executive, avoiding the erosion of the democratic process and rendering delegated legislation a device of effective governance and not one of legislative surrender.

Objective of the Research

The primary objectives of this research are to:

1. Explain the constitutional basis and legal principles that regulate the exercise of delegated legislation in India.

2. Critically analyze the judicial review function and the tests established by the courts to regulate delegated power.

3. Describe the utility of parliamentary and procedural controls as a restraint on the executive.

4. Describe certain case laws to illustrate the judicial process in practice.

5. Provide specific suggestions to enhance legislative and judicial control of delegated legislation in India.

Research Methodology

The research method used is analytical and descriptive mainly based on the doctrinal approach. The research is based on a judicious study of primary and secondary material. Primary sources are the Constitution of India, enactments, and an enormous amount of judicial precedents, particularly Supreme Court decisions. The chosen case study has been thoroughly examined to determine how settled principles of law have been applied in a particular fact situation. Secondary sources, like books on law, law review articles, and commentaries, have been employed to obtain theoretical and critical context for the examination. The study also entails comparative reading of judicial decisions to determine areas of emerging trends and settled attitudes in jurisprudence.

Literature Review

The literature concerning delegated legislation in India is doctrinal, historical, and jurisprudential in character, and addresses concerns of administrative efficiency and constitutional safeguards. Legal scholars from the classical period and jurist academics until the present have provided wide coverage of the principles, extent, and limits of subordinate legislation.

Delegated legislation is based on the need to enable executive agencies to provide for the detail in implementation of legislative policy. In his influential text Delegated Legislation (1959), Justice P.B. Mukharji stressed that the legislature does not abandon its inherent legislative power by conferring power to make rules. He propounded the test of what he called "essential legislative functions," which means that the legislature is responsible for developing broad policy and only leaving to the executive the authority to implement details of technical or procedural nature. Mukharji's work is instructive regarding distinguishing legitimate delegation from impermissible abdication of legislative power[8].

In addition to this perspective, K.C. Joshi's work on the "question of legislative policy" has emphasized that delegation of power must always be governed by policy frameworks, set out

[8] P.B. Mukharji, Delegated Legislation, 1 JILI 1959

by the legislature. The judicial review acts as a safety mechanism to ensure that the endorsed delegation is anchored in legislative intention. Joshi submitted that while legislative delegation makes law-making more efficient, it does not negate, diminish, or compromise the responsibility of the legislature in devising policy.[9] This caveat emphasizes the ongoing conversation in the literature about the limits of executive discretion in the context of the exercise of delegated power.

The case of In re: Delhi Laws Act, 1951 plays an important role in the jurisprudence of delegated legislation. The Supreme Court held that the legislature cannot delegate its law making capacity; the executive may only exercise functions ancillary or administrative in nature.[10] This case established that subordinate legislation must conform or obey the policy, principles, and framework laid out by the legislature, promoting the doctrine of separation of powers and parliamentary accountability in the process. The case remains a common starting point when courts evaluate the constitutionality of delegated rules, regulations, and orders.

V.N. Shukla's "Judicial Control of Delegated Legislation in India" provides a doctrinal and analytical depiction of the judiciary's role in overseeing subordinate legislation. Shukla identifies three modes of judicial control: substantive ultra vires, procedural ultra vires, and constitutional review.[11] These principles influenced landmark cases like "Indian Express Newspapers v. Union of India" (1986), where the Supreme Court emphasized that delegated legislation must meet two standards: it must comply with the enabling statute and also with constitutional reasonableness—extending judicial review beyond formalistic compliance to substantive fairness and constitutional propriety.[12]

From a practice perspective, P.M. Bakshi's contributions outline the particular criteria in order to assess the legality of delegated legislation which must comply with the parent Act, regard procedural requirements, not contain unauthorized sub-delegation, and not infringe on fundamental rights.[13] This analytical framework parallels contemporary cases such as "Dibakar Patra v. State of Odisha & Anr." (2025) and the UGC Guidelines (2025), in which the courts weighed the limited expertise of administrative bodies to assess against legislative codifications

[9] K.C. Joshi, Question of Legislative Policy in Delegated Legislation — Recent Cases, JILI, Jul–Sep 1976, Vol. 18, No. 3

[10] In re: Delhi Laws Act, 1951, AIR 1951 SC 332.

[11] V.N. Shukla, Judicial Control of Delegated Legislation in India, 1 JILI 1959.

[12] Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India, AIR 1986 SC 515.

[13] P.M. Bakshi, Delegated Legislation: Doctrine and Judicial Control, 1984.

and constitutional limitations. The progression is an example of the evolving judicial philosophy on the matter of subordinate legislation and the ancillary law making.

The literature has also classified delegated legislation as statutory rules, regulations, bye-laws, orders, notifications, circulars, and schemes. Each has a specific administrative purpose, with academic discourse noting the role of proportionality, clarity, and accountability in drafting these instruments. Works such as Mukharji, Joshi, and Shukla note that simply put, the constitutional and jurisprudential foundation for the exercise of delegated legislation stands upon adherence to legislative policy, reasonableness, and oversight by the courts.

In any case, the existing scholarship shows that there is a convergence of administrative necessity mixed with constitutional prudence. The literature reflects this duality of delegated legislation: it is a recognized necessary evil for effective governance but not without risk of misuse if left uncontrolled. Scholars agree that a sound system of judicial review, supplemented with parliamentary procedure and other safeguards, is crucial to maintaining the balance of flexibility with accountableness within India's delegated lawmaking state.

Categories of Sub-Legislation (Delegated Legislation) in India

Delegated legislation or sub-legislation in India is the detailed legal instruments created by the executive, statutory authorities, or local authorities by virtue of powers conferred on them by the Parliament or State Legislatures. Given that it is often not feasible for the legislature to anticipate every detail—whether administrative or technical—in the law, delegated legislation, therefore, serves a useful purpose in giving effect to legislation. There are different types of sub-legislation in India, each serving a particular function within administration of the law.

1. Statutory Rules

Rules are made through the executive decision-making process under the authority granted by a parent statute. Rules operationalize the main statute and are more detailed than the legislation that they supplement. Rules usually prescribe procedures, forms, and conditions needed to enforce the Act. For example, the rules in central civil services (conduct) rules, 1964 were created under Article 309 of the Constitution, to regulate the conduct and ethics of government servants. Likewise, the Income Tax Rules, 1962 were created under the Income Tax Act, 1961, to specify detailed procedures related to the computation and assessment of taxes payable under the Income Tax Act.

2. Regulations

Regulations are issued through statutory or regulatory bodies to deal with certain fields that are technical or specific in nature. Regulations usually prescribe standards, qualifications, or mechanisms which govern specific industries. A clear example of this is the Reserve Bank of India (RBI) which issues the Banking Regulation (Companies) Rules, 1949 which governs lending, capital adequacy and liquidity requirements at banks. The Securities and Exchange

Board of India (SEBI) also issues regulations, for example SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, which governs proper disclosure and investor protection in the securities market.

3. Bye-laws

Bye-laws are a specific type of delegated legislation made by local authorities or municipal corporations to govern local issues such as public health, sanitation, and building regulations. The Delhi Municipal Corporation Building Bye Laws, 1983 for example govern local building structures. Similarly, local transport authorities make bye-laws regulating vehicle parking and traffic control within their jurisdictions.

4. Orders

Orders are explicit instructions given by government authorities, typically in situations where immediate action or control is required and are normally temporary in nature. Orders apply to specific cases or to a specific area. For example, Government can frequently issue control orders under the Essential Commodities Act, 1955 to control the supply, distribution and price of essential commodities. 5.Notifications

Notifications are formal announcements or declarations that are made in the Official Gazette. Notifications can be used to bring into effect certain provisions of the law; to change any schedules; or to fix jurisdictional limits, among other purposes. For example, a section of an Act might come into force only upon notification by the Government.

6. Circulars and Directions

Circulars and directions are administrative mechanisms used by high authorities directing subordinates in implementing laws and policies. These do not make new rules, but they have a binding force within the administrative hierarchy provided the circulars and directions are permitted by statute. For example, the Income Tax Department publishes circulars to clarify the application and implementation of tax laws either procedurally or interpretively. Circulars from this Department will have the same binding force as expressed in law.

7. Schemes

Schemes are comprehensive plans developed under the authority of an Act and aimed at achieving the objectives of that Act. Schemes are particularly common in welfare and socioeconomic legislation. For example, *the* Employees' Provident Fund Scheme, 1952 *was framed under the* Employees' Provident Funds and Miscellaneous Provisions Act, 1952 to secure postretirement benefits for workers. Similarly, the National Food Security Act, 2013 empowers the government to frame schemes like *the* Targeted Public Distribution System (TPDS) to ensure food security for citizens.

Constitutional and Jurisprudential Basis of Delegated Legislation

The power of the legislature to transfer authority for law-making to the executive is a well-established reality of modern governance, although debates about its constitutional justification have a long history. The Indian Constitution is silent on the legislature's authority to delegate law-making functions; nevertheless, courts have justified this delegation as a necessary implication for the effective operation of the state in a complex socio-economic environment. Delegated legislation facilitates the utilization of technical skills, public administration, and on-the-spot action, none of which the legislature can realistically do alone. For example, regulation of environment, communications, finance, and welfare schemes each require ongoing specialized engagement, which makes delegation essential. Additionally, in a welfare state, the volume of subsidiary (delegated) regulation government would require in order to implement very broad legislation effectively cannot be realistic for the legislature.

Justice P.B. Mukharji, in his article called Delegated Legislation published in 1959, stated that delegated legislation is frequently misconstrued and clarified that the legislature does not abandon its essential legislative powers by granting authority to make rules in respect of laws designed to be enacted. He introduced the concept of the "essential legislative functions" test, which requires legislatures to establish the policy and broad contours of law and increases the role of the executive to fill in the technical and administrative particulars[14].

K.C. Joshi takes a similar approach to clarify this principle by addressing the important distinction between legislative policy that belongs to the legislature and the authority granted to the executive in the exercise of rule-making. Joshi described how judicial review acts as a safeguard to ensure delegated officials act strictly within the ambit of legislative intent and policy; any authority granted to the executive that affects Parliament's ability to make policy decisions results in interests of invalid subordinate legislation. This reading of Joshi's formulation advances both Mukharji's notion of delegation and Joshi's meaning of critical boundary of legislative policy coupled with the nature of judicial review[15]. Many times the argument that Joshi describes a context where the delegation of power is meant to streamline the legislative process, but certainly should never absolve the legislature of its constitutional duty or do anything to impede or re-arrange the proper orders of government.

In the case of In re Delhi Laws Act, 1912, AIR 1951 SC 332[16], the Supreme Court noted that the legislature cannot delegate its core legislative responsibilities, except that it may delegate rule-making to enforce the law. In Gwalior Rayon Silk Mfg. Co. Ltd. v. Union of India, AIR 1974 SC 1660[17], the Supreme Court reiterated that policy guidelines must accompany the delegation; simply stating that it is delegating authority is insufficient, the statute must clarify how the delegated powers are to be exercised in order to allow effective conditional and accountable delegation.

From a doctrinal perspective, P.M. Bakshi provides criteria for assessing the validity of delegated legislation. There are four principal conditions governing validity according to Bakshi: (i) the parent Act must itself be constitutionally valid; (ii) the delegation clause must itself be valid; (iii) the statutory instrument must adhere in substance, form, and procedure to the delegation clause; and (iv) the instrument does not violate fundamental rights or other provisions of the constitution. Grounds for judicial invalidation are substantive ultra vires, procedural deficiencies, and unauthorized sub-delegation[18].

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[14] P.B. Mukharji, Delegated Legislation, JILI, 1959, Vol. 1, No. 4

[15] K.C. Joshi, Question of Legislative Policy in Delegated Legislation—Recent Cases, JILI, Jul-Sep 1976, Vol. 18, No. 3

[16] In re Delhi Laws Act, 1912, AIR 1951 SC 332.

[17] Gwalior Rayon Silk Mfg. Co. Ltd. v. Union of India, AIR 1974 SC 1660.

[18] P.M. Bakshi, Subordinate Legislation: Scrutinising the Validity, JILI, Jan-Mar 1994, Vol. 36, No. 1

Bakshi further notes that statutory instruments must not oust judicial jurisdiction, impose penalties or taxes without authority, have retrospective effect, or contravene the parent Act. Judicial review examines reasonableness and absence of mala fides, ensuring delegated powers are exercised for legitimate purposes. While natural justice does not generally apply, procedural safeguards like consultation and prior sanction are often mandatory. Partial invalidity is recognized, allowing courts to enforce valid portions of statutory instruments while striking down ultra vires portions.

In conclusion, the constitutional and jurisprudential context in India allows for delegated legislation as an essential tool of administration, limited by the policy of the legislature, the limits of statute, and the four corners of the Constitution. Delegation is a practical inevitability but needs some form of oversight to maintain the legislatures' aims, principles of accountability, and the rule of law.

Judicial Control of Delegated Legislation

The idea of judicial review with respect to delegated legislation in India is one of the constitutional checks on the potential abuse of power by the executive. V.N. Shukla, in his seminal work Judicial Control of Delegated Legislation in India, noted that while the delegation of legislative authority is administratively indispensable, this must never mean an abdication by Parliament from important legislative functions. He noted that judicial review ensures delegated legislation remains within constitutional and statutory boundaries, thereby preventing the violation of fundamental rights by virtue of executive excess.[19]

Shukla found three basic modes of judicial control: (a) substantive ultra vires, when the delegated legislation is out of the boundaries created by the parent statute; (b) procedural ultra vires, when the delegate is not following mandatory procedural requisites; and (c) constitutional control, where delegated legislation is out of tune with constitutional values or fundamental liberties.[2] He emphasized the point that the judiciary must not be the passive referee, but the active protector of constitutional integrity, so that legislative confidence placed on the executive does not result in arbitrary rule.[20]

[19] V.N. Shukla, Judicial Control of Delegated Legislation in India, (1959) 1 J. Indian L. Inst. 357, 359.
[20] Id., at 360.

This theoretical paradigm was considerably illustrated in the landmark case of Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India, AIR 1986 SC 515. The petitioners, who were newspaper publishers, challenged an administrative notification issued under the Customs Act setting different customs duties on imported newsprint. They claimed that the notification, as an example of delegated legislation, was an exercise of powers that was colorable and an infringement on their constitutional fundamental right to freedom of speech and expression under Article 19(1)(a).[21] They argued that the executive was utilizing fiscal powers for the purposes other than the raising of revenues, but instead to indirectly throttle the press through economic restraints so as to make the notification unconstitutional.

The Supreme Court, affirming the validity of the notification, made an insightful comment on the extent of judicial review by way of reference to delegated legislation. It unequivocally held that the rules, the regulations, and the notifications issued under statutory power are liable for judicial review and can be set aside if they transgress the limit set by the parent Act, are arbitrary, or contravenes constitutional protections.[4] The Court encapsulated the power of oversight authority of the judiciary "is not limited to the principal legislation but extends equally to the subordinate," strongly underscoring the fact that constitutional protections are not to be evaded under the guise of delegated powers[22].

The Indian Express's analysis supported Shukla's normative argument that the exercise of power is not inconsistent with constitutional accountability.[5] That the Court is keen to scrutinise the notification not only for conformity with procedural or statutory requirements, but also with substantive reasonableness under Article 19(1)(a), is an indication of the transition from an exclusive formalist ultra vires doctrine to the broad-based constitutional review. This is similar to Shukla's previous contention that judicial review must transcend the formalities of legality to substantive justice—more specifically, that delegated legislation must have an affinity to the pith and substance of the Constitution but not the strict interpretation of the empowering statute[23].

In addition, both the decisions in Shukla and the Indian Express also insist that reasonableness is the constitutional standard by which executive discretion under delegated powers is to be assessed. The Supreme Court noted that though the challenged notification was not

[21] Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India, AIR 1986 SC 515.
[22] Ibid
[23] V.N. Shukla, supra note 1, at 365.

unreasonable in application, the power invested in the delegate is still shackled by the same constitutional restraints that govern the legislatures.[24] This observation finds considerable correspondence with Shukla's argument that constitutional review is the greatest safeguard against administrative absolutism.

Thus, the transition from Shukla's theoretical articulation in 1959 to the judicial validation in Indian Express in 1986 illustrates an impressive continuity within Indian administrative jurisprudence. The court, while inexorably underlining the necessity for delegated legislation in the complex modern state, reiterated the commitment to the rule of law and an overriding supremacy for the Constitution. Both the intellectual discussion and the judicial pronouncement converge upon an underlying constitutional principle — delegated legislation, though indispensable, must not transgress the boundaries of constitutional reasonableness and fundamental liberties. Thus, judicial review serves not only as an occasion for procedural checks but also as a substantive constitutional safeguard, protecting the citizenry from the possibility of abuse by delegated authority.

Case studies

In India, delegated legislation is situated within the tension between efficient administration and constitutional accountability. It allows other officials or agencies to administer legislation, thus minimizing the work on the executive and the legislature, but it does introduce another level of judicial scrutiny to ensure it is implemented within the bounds of the legislative delegation. In significant cases, the judiciary has clarified what is permissible, balancing some delegated legislation's need for flexibility with its democratic underpinning.

1. A.K. Gopalan v. Union of India (1950)

This case is one of the earliest of judicial scrutiny of delegated powers. This case dealt with the preventive detention laws created under the Preventive Detention Act. Although the case dealt mainly with fundamental rights, the Court note (at [68]-[71]) that the rules made pursuant to enabling statutes are valid rules as long as the rules do not go beyond the paraent Act. The A. K. Gopalan v. Union of India (1950) case provided a basis for a court applying the ultra vires

[24] Indian Express Newspapers (Bombay) Pvt. Ltd., ibid.

doctrine to subordinate legislation and ultimately ensuring judicial review as a check on legislative delegation.[25]

2. In re: The Delhi Laws Act, 1951

In this case, the Supreme Court clarifies the legislature cannot delegate its legislative lawmaking powers. Any delegation must be ancillary powers or operational details. Subordinate legislation must just follow the policy, principle, and framework that the legislature includes in a law. The Court relies on its legislative power to enforce the constitutional principle of separation of powers and accountability.[26]

3. Kesavananda Bharati v. State of Kerala (1973)

Although it is primarily a basic structure case, it has deep consequences for delegated legislation. The Court pointed out that any delegation of legislative power must and cannot violate constitutional supremacy or the basic structure, including separation of powers, and evaluating democratic accountability. This important principle continues to provide the basis of judicial review for laws made in delegated fashion, ensuring that the exercise of administrative discretion does not spillover legislative authority.[27]

4. Union of India v. R. Gandhi (2010)

This case on the validity of rules made under service regulations for employees of the government. The Court stated that delegated legislation is subject to the presumption of constitutionality that is enjoyed in such legislation, but nevertheless, these rules can be struck down on the basis that they were ultra vires the enabling statute or Constitution. It reiterated the point that in delegated rulemaking, reasonableness, fairness and statutory limits are critical considerations.[28]

5. Dibakar Patra v. State of Odisha & Anr., 2025

The Supreme Court dealt with rules made by the Odisha High Court under Articles 233–235 read with Article 309. The Court held that these rules were delegated legislation and generally

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25 A.K. Gopalan v. Union of India, AIR 1950 SC 27.
26 In re: The Delhi Laws Act, 1951, 1951 SCR 100.
27 Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.
28 Union of India v. R. Gandhi, (2007) SCC Online 789.

protected by the provision of the Constitution and the rules of statutory interpretation, stating that legislation made through the administration of experience should not be lightly set-aside. This decision reveals the complexity of the judiciary's legitimising practice: acknowledging the expertise in administration, while ensuring adherence to the relevant legislative and constitutional requirements.[29]

6. UGC Guidelines, 2025

The University Grants Commission promulgated guidelines that regulated higher education institutions, which raised issues of federal encroachment. The courts iterated that a statutory authority, exercising powers delegated to it, will have to operate within the limits set-out by Parliament and the Constitution. This is indicative of the underlying tension between regulatory efficiency and accountability by legislation, especially in a regulated sector requiring expertise[30].

All of these landmark cases show that delegated legislation is necessary when there are areas that would benefit from technical knowledge, subject areas that can adapt quickly to change, and issues of regulated industry. The notion of judicial review protects democratic responsiveness, constitutional supremacy, and the entrenchment of legislative power. Courts uphold rules subject to statute while invalidating ultra vires actions, so they manage to achieve a particular balance between administrative necessity and constitutional fidelity.

Overall, these cases reveal that delegated legislation is both a practical approach as well as a constitutional challenge, and its validity can be a function of adherence to some principles, acceptable level of judicial review and legislative design. Through these landmark decisions, Indian jurisprudence has established a framework requiring caution and diligence in balancing between administrative efficiency and the demands of democracy.

Conclusion and Recommendations

The process of delegated legislation is a constitutional reality that has evolved in response to the demands of contemporary governance. It is an essential instrument of efficient and effective governance of a state as diverse and intricate as ours. But its unmerited use is a grave danger

[29] Dibakar Patra v. State of Odisha & Anr., (2025) SCC Online.
[30] UGC Guidelines, 2025.

to the democratic structure as it consolidates the law-making power in hands of the executive. The Indian judiciary has impressively taken up the challenge and, in a spate of watershed rulings, evolved a sound body of principles and doctrines to confine this delegated authority. The doctrine of vital legislative functions and the policy against excessive delegation have been the corner stone of this control. The courts have continually ruled that the legislature may not delegate practicable power to appropriate legislation and must supply the delegate with a policy to be executed. The extension of judicial review to even tests of reasonableness and constitutionality as in the case of the Indian Express Newspapers has greatly enhanced the judicial role as the sentinel on the quay of the Constitution.

While judicial control is a vital safeguard, it is not a panacea. The reliance on post-facto judicial review means that a harmful or arbitrary delegated law can remain in effect until it is challenged in court. Therefore, there is a compelling need for more effective parliamentary and procedural safeguards.

Based on the analysis, the following recommendations are proposed to enhance the control over delegated legislation in India:

1. **Strengthening Parliamentary Scrutiny:** The current Parliament subordinate legislations committees should be given the autonomy to scrutinize delegated laws with additional powers. They should be able to advise alteration to, or even repeal of, a delegated law and such advice should be mandatory on the executive except where Parliament specifically overrides them.

2. **Mandatory Procedural Requirements:** The delegating legislation must statutorily provide for definite procedural standards governing the making of delegated legislation, such as public consultation, publishing proposed rules for public review, and a process to seek and reply to public inputs. This would make the process transparent and accountable.

3. **Codification of Principles:** The principles and guidelines laid down by the Supreme Court for permissible delegation should be codified into a statute, such as a Delegated Legislation Act. This would provide clarity and consistency, reducing ambiguity and preventing the executive from pushing the boundaries of its delegated power.

4. **Regular Audits:** An independent body should be established to conduct regular audits of delegated legislation to ensure that it aligns with the parent Act and constitutional principles. This proactive measure would help in identifying and rectifying issues before they are challenged in court.

In conclusion, while delegated legislation is a necessary evil, the legal framework in India, anchored by a vigilant judiciary, has largely succeeded in taming its potential for abuse. However, continuous reform is required to ensure that this legislative practice continues to serve the public interest without compromising the foundational tenets of democracy.