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DELEGATED LEGISLATION IN INDIA AND THE CONSTITUTIONAL  
STANDPOINT

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ABSTRACT

The goal of this paper evaluates the constitutional standpoint of delegated legislation in India. The doctrine of Rule of Law strikes at such arbitrariness and contemplates reasonableness in every action of the government. It postulates the government of law and not of men; and the Constitution of India bears an ample testimony of its necessity and it pervades throughout the entire fabric of the Constitution as echoed by the Indian judiciary. Encompassed with a duty to make rules under the umbrella of skeletal laws providing guidelines for the same, it is often observed that the bureaucratic lawmaking flouts such authority. Though judiciary has also played a vital role in preserving its' sanctity, the question, however, remains, as to how far this Rule is being carried forward by the authorities vested with the administrative law making power? The power of judicial review is a great weapon in the hands of the judiciary that can be used to invalidate the actions of the authorities vested with the public duty to exercise the power for the common good and not for their vested interests. The Doctrine of ultra vires devised by the courts to check the validity of the delegated legislation is an effective mode of pronouncing upon their constitutionality. This control mechanism to a greatest extent keep in bounds the wide and sweeping powers of the administrative authorities, conferred to them by way of delegation of the law making powers of the legislature.

*Keywords:* India, Delegated Powers, Rule of Law, Judiciary.

1. INTRODUCTION

The modern administrative state reflects the idea that the duty of the government to provide remedies for the social and economic harms stemming out of the wide and diverse socio-economic activities undertaken by it, is primarily the outcome of the concept of social welfare state. After the abandonment of its earlier ruling political gospel, which was devoid of the element of community welfare, the government has become pro-active and its' peeping into the lives of the people has become a very common phenomena. In order to move with the pace of the growing needs of the society where diverse problems have to be taken care of, the velocity of the law making by the legislature however has become inadequate and is not in parity with them. This inevitably has led to the growth and popularity of the subordinate legislation in the form of rules, regulations, etc. So voluminous is the number of the delegated legislations now that it has outnumbered the parent enactments passed by the supreme lawmaking authority. The possibility of misuse or abuse of the power by the corrupted minds

for their personal gains further necessitates the need to keep a vigil on the assumption of powers by the administration generally targeted to ensure subjectivity in the guise of objectivity.

The Constitution of India imposes a duty upon the Parliament and the State Legislatures to make laws, for which the scheme of distribution of the law making powers has been provided and the Schedule VII has been appended therewith to provide an enumerative list of the subject matters where respective legislatures would be competent to make laws.

Although the duty to make laws has been primarily vested in the legislature, nonetheless, no such provision barring the legislature to delegate the lawmaking power to other authorities could be construed. Consequently, the legislature is competent to delegate its lawmaking power to other authorities for the purpose of framing rules, which have the same force as the law passed by the parliament. In the question concerning the competence of the legislature to delegate its legislative powers, Wanchoo, J., while delivering the judgment in *D.S. Garewal v. The State of Punjab and Another*<sup>1</sup> held that “the words ‘Parliament may by law provide’, used in Article 312 do not necessarily exclude delegation....”<sup>2</sup> While further examining the intention of the Constitution under Article 312, court observed: “This could not be unknown to the Constitution makers and it is not possible to hold that these numerous and varied rules should be formed by Parliament itself and that any amendment of these rules which may be required to meet the difficulty of day-to-day administration should also be made by Parliament only with all the attending delay which passing of legislation entails.”<sup>3</sup> Thus the Court held, “it could not have been the intention of the Constitution that the numerous and the varied provisions that have to be made.....should all be enacted as statute law and nothing should be delegated to the executive authorities.....words used in Article 312 in the context in which they have been used do not exclude the delegation of the power to frame rules ...”<sup>4</sup>

The question of determining the extent of such delegation of the law making power; however, remains a separate issue to be dealt in. According to Griffith:

“Though the Parliament has an essential law making duty, but by looking at the whole legislative process, it would perhaps be more realistic to say that the government makes the laws subject to the limitations imposed by the legislature.”<sup>5</sup>

The traditional theory that the role of executive is restricted to the administration of laws enacted by the legislature no longer holds good. As in the case of *Ram Jawaya Kapoor v. State of Punjab*,<sup>6</sup> the Supreme Court, while explaining the meaning of the ‘executive powers’ held that the what residue is left after the legislative and judicial functions are performed, goes to the pockets of the executives. Not only this, in the welfare state the role of executives has also undergone a drastic change where they supplement the legislature by supplying details to the skeletal legislations passed by them. The question as to how far Montesquieu’s Doctrine of Separation of Powers, which postulates that not more than one function should be performed by one person or a body, that is, legislature alone to deal with law making; executive with the implementation of laws enacted by the supreme law making authority; and the judiciary to interpret such laws, does not hold good with the needs of the modern State. The answer certainly is that the strict application of the doctrine would leave the system in the state of a fix. It is good to have a government based on system of checks and balances, nonetheless its existence as a mere spectator is not acceptable in a social welfare state, where it has received its

<sup>1</sup> 1959 SCR Supl.(1) 792

<sup>2</sup> *Id.*, at 800

<sup>3</sup> *Id.*, at 801

<sup>4</sup> *Id.*

<sup>5</sup> C. K. Takwani, *Lectures on Administrative Law*, (Lucknow: Eastern Book Company), 2<sup>nd</sup> Edition, (Reprint, 1997), at 52.

<sup>6</sup> AIR 1955 SC 549

mandate on the assurance that it would work for establishing conditions for the development of the personality and well-being of an individual. In order to achieve such objectives, the government has to be a pro-active and empathetic so as to understand the needs of the society. The role of the State to do more than preservation of public peace, execution of laws and defending the country frontiers against external threats of aggression, has inevitably led to the growth of delegated legislation, thereby broadening the horizon of its activities. At the same time, the exercise of the law making power by the State authorities is probable enough of leaving an apprehension into the minds those to be governed by such authorities, that the power might be used by those in possession as a weapon against them to fulfil their vicious motives. Power has a gleam which can make the person in possession of it blind to understand it being abused by him. Lord Acton aptly remarked that power tends to corrupt a man and absolute power corrupts him absolutely. Misuse of power tends to develop a feeling of discontent among the subjects of its application. So in order to tackle such eventualities having a tendency to curb the freedom of a person, there is a great need to control them at every stage, right from the inception to their application in day to day life. This article is an ardent attempt to explore the precincts of delegated legislation that could possibly be drawn under the aegis of the Constitution of India. It would not be out of place to mention that the role of the judiciary in disapproving the delegated legislations found not in consonance with the spirit of the Constitution is an added fillip to the common man. The courts have successfully defined the parameters of the subordinate law making that was astoundingly found working out of the scope of its authority. In this context, the judicial pronouncements on the question of constitutionality of the delegated legislation have also been looked into in this article.

## 2. INDISPENSABILITY OF SUBORDINATE LAW MAKING

A great deal of legislation takes place outside the legislature in the government departments, bearing wide-ranging nomenclature: rules, regulations, bye-laws, schemes, orders, notifications, etc. The executive doesn't possess any such general power to supplement the laws made by the legislature. Whatever power of law making the executive has is derived from delegation made by the parent law making authority under specific enactments. This process of supplementing the skeletal legislations of the legislature could be described as 'delegated' or 'subordinate' legislation. Although, the way of defining the delegated legislation appears to be very simple; however, due to the vastness of powers exercised by these authorities any effort to define it would in itself be incomplete. In 1929, the Committee on Minister's Powers, a committee appointed in England to examine the growing powers of administration and to report on the constitutional validity of the delegated legislation, pointed out that the term 'delegated legislation' is used in two senses: rule-making under the authority delegated by the legislature within limits set out for its constitutionality and outcome of the exercise of the power, viz, rules, regulations, orders, ordinances, etc.<sup>7</sup> The delegated legislation is an implement of the legislative nature making its subdued appearance within the chambers of the bureaucrats, but having full strength and vigour; as in prime youth of a person; to hit the prospective stakeholders. Here, 'implement' refers to the 'child legislation' made by an authority other than the legislature. Candidly speaking, delegated legislation is formidably a necessary characteristic of law making reflecting smoothness in the functioning of the government.

In a welfare State, it is commonly observed that in the recent years there has been an enormous increase in the delegated legislation. The development is not an isolated phenomenon, but is a concomitant to the increased functions of the State. With a shift from individualism to collectivism and the state assuming more and more responsibility in promoting the welfare of its citizens by providing the services, evolving various social security measures,

<sup>7</sup> Dr. U. P. D. Kesari, *Administrative Law*, (Allahabad: Central Law Publications, 2010), 18<sup>th</sup> Edition, at 50.

etc., the role of state has undergone a stupendous change which earlier it was never used to and the maintenance of law and order was the major thrust area, without having any consideration to work for the betterment of the society. The concept of responsible government treaded with great enthusiasm with the coming into force of the Constitution of India. The negative State thus, turned into a welfare State.<sup>8</sup> Since the independence of our country, the desire to attain the objectives set out for the government to establish welfare state has resulted into intense legislative activity. The Parliament and the State Legislatures entrusted with the primary duty to legislate, face certain hurdles in exercising their law making power when it comes to dealing with the socio- economic complexities. The scarcity of time, lack of expertise to deal with technical and situational intricacies has left their state of affairs in a great dilemma. This bizarre status of the law- makers has left them with no option other than to delegate their law making powers to someone else having an expertise, knowledge and skill sufficient enough to fill the gaps left unfilled by the legislators. The administrative authorities take into their hands the task of supplementing the necessary details to the skeletal legislations, which are not the complete code in themselves and those skeletal legislations are wait for their flesh and blood to be filled so as to make a complete body of rules. The technique of delegated legislation provides a mechanism of persistent adoption to the unknown future conditions, and utilisation of experience, without the formality of the legislature enacting an amended legislation from time to time.<sup>9</sup>

### 3. FETTERS ON DELEGATED LEGISLATION

It is true that delegated legislation is a common phenomenon in almost all the countries of the world, but the extent to which such power of law making can be delegated is a question of concern. As the Committee on Ministers Powers recommended that the enabling or skeletal legislation which contains only basic principles and which leaves the details to be provided by delegated legislation, should be exceptional.<sup>10</sup> Under those circumstances, where it becomes extremely inevitable to delegate, the methods for its control should also be provided so as to prevent the delegated authorities from abusing the law making power or from exceeding the limits provided by the enabling legislation. Usurping the role of the legislators cannot be permitted as there can be no parallel law making body to that of the Parliament or of the State Legislatures. Thus, an important issue arises as to where the line of distinction be drawn between the Primary Legislation and Secondary Legislation? Can Legislatures abdicate their function and create a parallel law making body? In order to find the solution of these problems, it becomes necessary to determine as to whether there can be any delegation of the law making powers? And if any, what are the permissible limits for delegation?

In Britain, the Parliament is supreme and has unlimited powers to make any law on any subject affecting any person, and there are no fundamental laws which Parliament cannot amend or repeal in the same way as any ordinary legislation. Affirming the 'Legislative Supremacy of Parliament', Dicey once said, "The right to make or unmake any law whatever, no person or body is recognised by the law of England as having the right to override or to set aside the legislation of Parliament."<sup>11</sup> The power of judicial review of the courts does not extend on any ground to the extent of questioning the authority of the Parliament to make law in any field. In the case of *Manuel v. Att. – Gen.*,<sup>12</sup> Sir Robert Megarry V.C. held that once a

<sup>8</sup> Mahendra P. Singh, *V.N. Shukla's Constitution of India*, (Lucknow: Eastern Book Company), 9th Edition, (Reprint, 1996), at 637.

<sup>9</sup> M. P. Jain and S. N. Jain, *Principles of Administrative Law*, (Nagpur: Lexis Nexis Butterworths Wadhwa, 2010) at 46.

<sup>10</sup> Paul Jackson and Patricia Leopold, *O. Hood Philips and Jackson: Constitutional and Administrative Law*, (London: Sweet and Maxwell Ltd., 2001), 8<sup>th</sup> Edition, at 669.

<sup>11</sup> *Id.*, at 47

<sup>12</sup> [1983]Ch. 77, 86: Also see *Id.*

document is recognized as being an Act of Parliament, no English court can refuse to obey it or question its validity. Thus, Parliament is supreme and possesses an absolute and unabated power to delegate the law making power to an outside authority. The extent of delegation of the law making power is an unquestionable and unjustifiable issue, thus the question of excessive delegation or permissible limits of delegation cannot arise. However, the ultimate power to control the delegated authority vests with the Parliament and at the same time the delegate may be left free to evolve policy or standard while making law in the form of rules, regulations, etc. Thus, it could be inferred that Parliament is not supposed to follow any principles for delegating its law making power. However, it has been suggested by the Committee on Ministers Powers: "The precise limit of law making power which Parliament intends to confer on a Minister should always be expressly defined in clear language by the statute which confers it: when discretion is conferred, its limits should be defined with equal clearness."<sup>13</sup> The intentions of the Committee aim at prescribing limits in delegating the law making power by the Parliament. In India, the Constitution, which is the supreme law of the land, does not impose any bar to the delegation of the law making power by the Legislature to an outside authority. Nonetheless, there are clear provisions in the Constitution conferring the plenary law making powers to the Parliament and the State Legislatures with respect to the territorial jurisdiction and the subject matter jurisdiction of the respective legislatures.

The scheme of distribution of the law making power by the respective legislatures can be construed in very clear terms from the provisions contained in Article 245 to 255 of the Constitution. However, these provisions do not bar the primary legislatures from delegating the authority to someone else for the purpose of doing secondary legislation. As the Constitution provides limit for the law making by the legislatures, it is obvious that the subordinate legislation too has to conform to the limits provided by the Constitution or those by the enabling legislation. Thus the primary and the secondary legislation have to pass the test of constitutionality in order to be enforceable. There is a very lucid provision in the Constitution that limits the law making power of the State, as defined under Article 12 of the Constitution. Additionally, Article 13 (2) of the Constitution imposes a clear restriction on the State that it cannot make any law which takes away or abridges the rights conferred by Part III of the Constitution and further declares that any law made in contravention of Article 13 (2) shall, to the extent of the contravention, be void.

The term 'law' includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of within the territory of India.<sup>14</sup> It is very clear from the interpretation given by the courts that the term 'State' includes within it, besides the authorities expressly mentioned in Article 12, all the agencies or instrumentalities of the State or those which are the creations of the Constitution or of any statute. Thus the administrative authorities exercising the law making power entrusted to them by way of delegation ought to be within its constraints, lest it would be declared void to the extent of inconsistency. The administrative authorities exercise their legislative powers in the form of rules, regulations, bye-laws, etc. Consequently they are also required to meet the criteria of reasonableness as stipulated under Article 14, 15 and 16 of the constitution. The law has not to be arbitrary, fanciful or tyrannical in nature. The doctrine of Rule of Law dictates reasonableness in the action of the State. The rule of law, sometimes equated with the idea of 'constitutionalism', has been widely proclaimed as a pillar of constitutional thought.<sup>15</sup> The rule of law, according to some has been claimed to be a good idea irrespective of the content of any particular law since it acts as a restraint on the

<sup>13</sup> Dr. J.J.R. Upadhaya, *Administrative Law*, (Allahabad: Central Law Agency), 7<sup>th</sup> Edition, (Reprint, 2011), at 67.

<sup>14</sup> Article 13(3) (a) of the Constitution of India

<sup>15</sup> John Alder, *Constitutional and Administrative Law*, (London: Palgrave Macmillan, 2005), 5<sup>th</sup> Edition, at 124.

despot and prevents officials from picking on individuals. The rule of law as inferred in the entire length of the Constitution dictates reasonableness in the action of the State.

The question of ascertaining the constitutionality of the subordinate legislation is equally important so as to see that the exercise of the power is within its domain. The legislature often use extensive, subjectively worded provisions of giving power to delegate to make such rules as appear to him to be necessary or expedient for the purpose of the Act without laying down any standard to guide the discretion of the delegate. This amounts to giving a blank cheque to the delegate to do whatever he likes.<sup>16</sup> The probability of the misuse of the power by the delegate in such cases increase, as the same is not subjected to any discussions or deliberations as is done in the case of the law passed by the legislature. Such law also lacks the element of public discussion, press criticism and is without the public opinion. Therefore, though the technique devised by the legislature to delegate its lawmaking power has become an inescapable phenomenon, yet the threats inherent in its indiscriminate use cannot be left unobserved.

The endeavours to undermine the attempts to misuse law making power can be traced back to the pre-constitutional period in India, when the British ruled her. In the case of *Queen v. Burah*,<sup>17</sup> the Privy Council propounded the concept of 'conditional legislation.' The Privy Council held that the where absolute law making powers are vested in the legislature, it is for the legislature to decide if the powers are to be exercised absolutely or conditionally. However, if the legislature delegates powers with the conditions on the use of such power or with limited powers of discretion to the other authority, it shall not be considered bad as the legislature possesses the power to delegate. It is clear from this decision of the Privy Council that the maxim *delegatus non potest delegare* could not be applied to the Indian Legislature to prevent it from delegating its legislative functions as it enjoyed the plenary law making power as the British Parliament and that it was not an agent of the British Parliament.

Regarding limits of delegation of the lawmaking power by the legislature, an inference can be drawn from the decision of the Privy Council that it can be conditional, but at the same time if the Indian legislature is deemed as a sovereign authority and not an agent of the Imperial Parliament, it could be inferred that it possesses an unlimited power to delegate to any extent. The Doctrine of conditional legislation has been also applied in the case of *Emperari Lal*,<sup>18</sup> where setting up of the special courts by the provincial government was to follow upon the condition being fulfilled; the Privy Council held that it was the case of conditional legislation. The concept of conditional legislation was, however, interpreted in a very restrictive manner by the Federal Court in *Jatindra Nath Gupta v. Province of Bihar*,<sup>19</sup> where it held that there could be no delegation of powers beyond the conditional legislation, which meant that there could be delegation only if the same provides the fulfilment of certain conditions for its application by the subordinate authority or lest there can be no delegation of the powers. This narrow view of the Federal Court on the subject of delegation, nevertheless, created confusion and the question of determining the permissible limits of delegation became significant.

After the present Constitution came into force, as no provision barring delegation of the legislative function by the legislature could be inferred, however, the decision of Federal Court, which was the final Court of Appeal in India before the establishment of the Supreme Court of India under Article 124(1) of the Constitution of India, was binding until the Supreme Court decided on the matter. Thus in the post- constitutional era the law was that there could be only conditional legislation. This necessitated defining the limits of delegation in the garb of the welfare activities undertaken by the State where the legislations proved to be inadequate in

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<sup>16</sup> *Supra*, note 9 at 48.

<sup>17</sup> 1878 3 AC 889

<sup>18</sup> 72 I.A. 57 (1945) : (1945) 47 BOMLR 260

<sup>19</sup> AIR 1949 F.C. 175

details to deal effectively with the socio- economic complexities that have emerged out of special needs of the society.

The President of India in order to clear the position of law governing delegation of the legislative powers, where the limit for delegation of legislative powers was defined by the Federal Court in Jatindra Nath's case, sought the Advisory jurisdiction of the Supreme Court, exercisable under Article 143 of the Constitution of India.

The Supreme Court in the famous case of *In re Delhi Laws Act*<sup>20</sup> confronted with question of defining the limits on the delegation of the law making power of the legislature. In the seven Judge Bench decision, seven different opinions were delivered exhibiting a cleavage of judicial views regarding the abovementioned question. However, a unity of viewpoint echoed on two points: one where they agreed on the issue of delegation of the legislative powers by the Parliament and the State Legislatures in order to coup up with the multitudinous issues of the country. Secondly, that the Indian Legislatures are the creation of the Constitution of India, hence work *intra vires* and subservient to it and cannot act with that freedom as vested with the British Parliament in the matter of law making or delegation of the same. However, the division mainly occurred on the point of permissible limits within which the Indian Legislature could validly delegate its legislative powers.

One view was that the legislature was competent to delegate the legislative powers to any extent provided that in doing so it does not efface itself or abdicate its powers, thereby giving way to uncontrolled legislation by the delegate. Thus, it meant that the Legislature should retain control over the delegate and that it should not create a parallel law making body and destroying its law making function by delegation of such power. Hence the ultimate control and the authority to withdraw the delegated power should vest with the legislature. The second view propounded was that the legislature should not delegate its essential law making functions, which comprise of formulating policy and enacting it into binding rule of conduct. In other words, the legislature has a constitutional duty of law making and for the purpose of delegation of the legislative functions, it is also necessary that outline must be laid down for the guidance of the delegate in the delegating Act itself so that the delegate work within the confines of that policy while filling the gaps left by the legislature to meet the socio-economic complexities of the modern State.

The court made it clear that the power of legislation implies a power of delegation to the extent it is necessary for effectuating the purpose of the power of legislation. The legislature can formulate the legislative policy and can delegate the rest of the legislative work to a subordinate authority who may work out the details within the framework of the legislative policy so formulated by the Legislature. It is thus clear that there can be no delegation without providing the legislative policy and guiding standards for the delegate. After *Delhi Laws Act* case, the Supreme Court in *Hamdard Dawakhana v. Union of India*<sup>21</sup>, declared a Central Act: The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 *ultra vires* on the ground of excessive delegation, though the decision of the court does not appear to be apt as the legislative policy had been laid down in the preamble and title of the Act. There can be no delegation of the essential legislative functions which have been entrusted to the Legislature by the Constitution as has been also laid down by the Supreme Court in case of *Vasantlal Maganbhai Sanjanwala v. State of Bombay and Others*.<sup>22</sup>

The decision of the Supreme Court in Gwalior *Rayon Silk Manufacturing v. Assistant Commissioner*<sup>23</sup> is worth citing where Khanna, J. (for himself, Alagiriswami, and Bhagwati, JJ.) reiterated that the legislature must lay down a policy, principle or standard for the guidance of

<sup>20</sup> AIR 1951 SC 332

<sup>21</sup> AIR 1960 SC 554

<sup>22</sup> AIR 1961 SC 1917

<sup>23</sup> AIR 1974 SC 1660

the delegate. They were of the opinion that the rule against excessive delegation of legislative authority flows from the sovereignty of the people and the contention that Parliament would repeal the rule or even the parent enactment if there had been an excessive delegation of the legislative power, was no answer to the question of laying down appropriate policy for guiding delegate. Further, expressing the minority view Mathew, J. (for himself and Ray, C.J.) observed that delegation involves the granting of discretionary power to another, but ultimate power always remains with the legislature. What is prohibited is abdication, that is, conferment of arbitrary power by the legislature upon a subordinate body without reserving to itself control over that body. But the legislature cannot be said to abdicate its legislative function if it could repeal the legislation at any time and withdraw the authority and discretion it had delegated.<sup>24</sup> The view expressed by the majority in this case appears to be correct as standards provided for the delegate would serve as a safety valve for the common man who may face exploitation at the hands of megalomaniacs vested with the law making power.

Enactment of law by the Legislature, within the frames of the Constitution of India, is an essential legislative function which cannot be delegated. Thus the law made by the legislature cannot be held invalid unless it is enacted out of its legislative competence or is violative of the fundamental rights guaranteed by Part III of the Constitution of India. While defining the power and competence of the Parliament to make laws in regard to the subjects covered by the legislative fields committed to it, the Supreme Court of India in the case of *Mahmadhusen Abdulrahim Kolata... v. Union of India and Ors*<sup>25</sup> held that the Parliament carries a power to repeal laws on those subjects under its competence. Also, that the power of the Parliament to repeal a law is co-extensive with its power to enact law. In the above case where specific provisions of Prevention of Terrorism (Repeal) Act, 2004, which repealed POTA, 2002, in regard to savings in sub-sections (2) to (5) of Section 2 were challenged as unconstitutional, it was held that the express or special provisions in the Repealing Act were constitutional and will apply, as the Parliament has the power to repeal the law which it has enacted and also the power to provide for Savings in the Repealing Act. The judicial pronouncements in all the above cases have established, especially after Delhi Laws Act case, that the delegation of legislative power to the executive is not prohibited, however, the same can be done within the permissible limits without delegating essential legislative functions.

#### 4. CONCLUSION

Delegation of the legislative power is an inevitable phenomenon to deal with the socio-economic complexities, which is the offspring's of the philosophy of 'welfare state' that has replaced the theory of *laissez faire*. This radical change in the philosophy governing the role of the state has consequently increased the functions of the state manifolds. It is all due the fact that the quality and quantum of legislation required is more and the legislature due to several reasons simply enacts the skeletal laws and prescribes the target, and leaves to the executives the task of filling the flesh and blood, in other words, the details to implement the laws effectively. With the conferment of power to the executive, the possibility of misuse is quite probable, thus a careful delegation of the lawmaking function providing standards for its exercise can be beneficial to keep them in their bounds. However, it is also true that the power to enact laws is the primary duty of the Parliament and the State legislatures and they cannot delegate their essential legislative functions, which include enactment of laws, amendment, repeal of laws, etc. that has also been reverberating in various judicial pronouncements.

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<sup>24</sup> *Supra*, note 5 at 64-65.

<sup>25</sup> (2009) 2 SCC 1