Powers conferred under a statute may be judicial, quasi-judicial or executive. A judicial decision is made according to law. An administrative decision is made according to administrative policy. A judge attempts to find what is the correct solution according to the legal rules and principles. An administrator attempts to find what is the most expedient and desirable solution in the public interest. In bodies or officials exercising executive powers, judicial or quasi-judicial power may be conferred. Very often the judicial power is unmistakable. But it is very difficult to lay down when a power is regarded as executive and when it is regarded as quasi-judicial. The subject is fraught with complications. The practical consequences flowing from the distinction is that certiorari or prohibition may be issued to quash or restrain an official or body acting in excess of jurisdiction when the power is quasi-judicial.

When the power is executive the English Courts, and until very recently the Indian Courts, declined to exercise reviewing power when the executive acts under powers conferred by a statute. Conversely the distinction between the executive and quasi-judicial power assumes importance when an application for a writ of certiorari or prohibition is made. Otherwise the distinction has no significance. In recent years the concept of quasi-judicial power has been undergoing a radical change. What was considered as an administrative power some years back is now being considered as a quasi-judicial power.

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When decisions of courts are examined, very little light may be derived regarding the basic character of distinction between the powers. It is sometimes doubted whether there is really any distinction. Controversies and conflicts have sprung up on the basis of the supposed distinction.

**Executive Decision**

Executive decision is discretionary and it is made on considerations of policy and expediency. The fact that an authority enjoys a wide discretion may at times lead the courts to characterise the function as executive, but this is not decisive. A quasi-judicial function may also involve large elements of discretion in requiring the authority to follow a procedure consistent with natural justice. The ultimate decision is non-reviewable on the merits by the Courts. Only in a few cases the executive power is ministerial in nature involving no discretion. Discretion is present whether the power is characterised as executive or quasi-judicial. Discretion is merely the administrator's own idea of expediency incapable of being declared wrong in law by any higher authority. Judicial control over the executive discretion is restricted, however, the courts can interfere only in case of abuse of discretion. The courts in India, unlike in England, have the power to control executive discretion, with reference to the fundamental rights.

Executive power includes power to investigate, to prosecute, to make rules and regulations, to adopt schemes, to fix prices, to issue and cancel licences and to adjudicate disputes. When an executive action partakes some judicial characteristics, it is characterised as quasi-judicial. Decisions of a court of law are judicial in nature, though in certain matters the judges may act executively. Executive authorities act either in an executive or

a quasi-judicial manner but never in a judicial manner because they lack the impartiality and objectivity of a judge. A question which often presents is whether the function performed by a body is executive, quasi-judicial or legislative in character. It is very difficult to distinguish one from the other. Another difficulty in classification is that a single proceeding may at times combine some aspects of all the three functions. It is very difficult theoretically and impossible practically to distinguish between purely legislative power on the one hand, and the purely executive power on the other, because executive action so often partakes both legislative and executive characteristics. The true nature of statutory provisions and of regulations made thereunder is often further complicated by the addition of a quasi-judicial aspect.

Quasi-judicial Decision

The English Courts have treated every administrative act as judicial if it adversely affected any person’s right, or as Lord Parker puts it ‘entailed penalty’. The Courts for the purpose of granting writs of certiorari or prohibition insisted the requirement of ‘duty to act judicially’ on the part of the body performing the act. Whenever the Court forgot the paradoxical sense which they invented for ‘judicial’ they found themselves in difficulty. To say that natural justice must be observed when the function is judicial, and the function is called judicial when natural justice ought to be observed is a circular argument. If every power affecting some person’s right is called judicial there

8. Ibid.
10. Duty to act judicially is merely a consequence of a power to affect a person’s rights.
is virtually no meaning left for administrative power. The term quasi-judicial was brought into vogue as an epithet for powers which, though administrative, were required to be exercised as if they were judicial, i.e., in accordance with natural justice. The Committee on Minister's Powers emphasised that a judicial decision consists of finding facts and applying law, where as a quasi-judicial decision consists of finding facts and applying administrative policy.

A quasi-judicial decision is a decision by an executive which has some judicial characteristics but not all. The term quasi-judicial is used in the sense that the power of adjudication is entrusted to a person or body outside the system of ordinary courts. In another sense a quasi-judicial decision is one which involves determination of executive policy rather than law. The Committee on Minister's Powers suggested that the judicial

13. A true judicial decision presupposes an existing dispute between two or more parties having the following four elements:
   1) Presentation of their case by the parties to the dispute.
   2) If the dispute between the parties relates to question of fact, the ascertainment of fact by means of evidence adduced by parties to the dispute and often with the assistance of argument by or on behalf of the parties on the evidence.
   3) If the dispute between them is a question of law, submission of legal argument by the parties; and
   4) A decision which disposes of the whole matter by a finding upon the facts in dispute and an application of the law to the facts so found including where required, a ruling upon any disputed questions of law.

A quasi-judicial decision equally presupposes an existing dispute between two or more parties and it involves presentation of case by the parties to the dispute and if the dispute relates to the question of the fact, ascertainment of fact with the help of evidence adduced by the parties with the assistance of legal counsel. But it does not involve submission of legal argument by the parties and never involves automatic application of the law to the facts ascertained, the place of which is substituted by executive discretion.

powers should be conferred on ordinary courts, save only in exceptional cases where it can be conferred on administrative tribunals.

Whether an Order is Quasi-Judicial or Executive — Test

Lord Atkin in *R. v. Electricity Commissioners*, Ex parte London Electricity Joint Committee Co., observed in connection with the issuing of writ of certiorari that 'whenever any body of persons having legal authority to determine questions affecting the rights of subjects, and having the duty to act judicially, act in excess of legal authority, they are subject to the jurisdiction of the King's Bench Division'. The Supreme Court of India accepted the above principle in *Province of Bombay v. Khusaldas S. Advani*.16

The Supreme Court emphasised the phrase 'duty to act judicially' in *Radeshyam Khare v. State of Madhya Pradesh*.17 In the words of S. K. Das J, when an executive body is under a duty to act judicially, its function is judicial or quasi-judicial. The question may arise widely in different circumstances. A precise and exhaustive definition is not possible.18

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16. A.I.R. 1950 S.C. 222. The Court held:
   1) There must be a body of persons who have legal authority to determine questions.
   2) They have authority to determine questions affecting rights of subjects.
   3) They must have duty to act judicially.
   4) If they act in excess of their legal authority, they are amenable to the jurisdiction of court by the issue of writ of certiorari. These are also the essentials of quasi-judicial decision because the writ goes only if the decision is quasi-judicial.
18. Id. at 120. The questions raised in this case are:
   1) Whether there is *lis interpartes*;
   2) Whether there is a claim and an opposition;
   3) Whether the decision is founded on the taking of evidence by affidavits.
   4) Whether the decision is actuated in whole or in part by questions of policy or expedience, and if so whether in arriving at *(f. n. contd.)*
In India the Supreme Court held that the function of the State Government under Sec. 53A of Central Provinces and Berar Municipalities Act 1922 is purely an executive function inspite of the requirement of an initial determination of jurisdictional fact, and the recording of reasons for decision. The Court held that the statutory body in this case has only to consider policy and expediency and there is no dispute at any stage.

Sinha J, summed up his opinion in *Nagendranath Bora v. Commissioner Hill Division* by saying that the question whether the executive authority functioned purely executively or...

19. *Radeshyam Khare v. State of Madhya Pradesh*, A.I.R. 1959 S.C. 107; There were certain allegations against the President of the Municipality and there were fasts demanding enquiry against him. Enquiry was conducted by the District Collector. The Municipal Committee was dissolved and an Executive Officer was appointed to run the Municipality.

20. Das J. laid down the following propositions.

quasi-judicially must be determined in each case, on an examination of the relevant statute and rules thereunder. The mere fact that an executive authority has to decide something does not make the decision final.\textsuperscript{22} It is the manner in which the decision is arrived at that makes the difference.\textsuperscript{23} The duty to act may be expressly stated or implied from the provisions of the statute. Judicial pronouncements have not laid down the guiding factors for implying the duty to act judicially.\textsuperscript{24} But the observations of Sinha J. in *Nagendranath Bora*\textsuperscript{25} and *Gullapalli Nageswara Rao*\textsuperscript{26} appear to give clarity to the issue.

In *Express Newspaper Ltd., v. The Union of India*,\textsuperscript{27} the question to be determined was whether the Wage Board functioning under the Working Journalists (Conditions of Service and Miscellaneous Provisions) Act 1955, was only discharging executive or quasi-judicial function. Bhagawati, J. observed\textsuperscript{28} that the functions of the Wage Board were quasi-judicial in character as it decides the issues after hearing both the parties and going through the evidence put before it. Duty to act judicially is implicit in the proceedings of the Wage Board.

The nature and character of a decision whether it is quasi-judicial or only executive under a statute depends upon the terms of the statute irrespective of the function whether it has duty and jurisdiction to decide controversies as a judicial body.\textsuperscript{29} A quasi-judicial decision should be objective, based on evidence, by determinate authority who should not have the right to delegate such a function of a judicial character.\textsuperscript{30}

\textsuperscript{22} V. G. Ramachandran, *op. cit.*, p. 152.

\textsuperscript{23} Ibid.

\textsuperscript{24} Ibid.


\textsuperscript{26} *Gullapalli Nageswara Rao v. Andhra Pradesh State Road Transport Corporation*, A.I.R. 1959 S.C. 308.

\textsuperscript{27} A.I.R. 1958 S.C. 578.

\textsuperscript{28} Id. at p. 613.


\textsuperscript{30} Ibid.
The duty to act judicially must be implied whenever an objective factor is stressed in a statute. The tendency of judicial pronouncements have been rather towards too strict an interpretation. This led to certain difficulties. In *Khushaldas Advani* the Government of Bombay requisitioned a house for one refugee and allotted the same to another refugee. Sec. 3 of the Bombay Land Requisition Order (V of 1947) stated 'if in the opinion of the provincial government it is necessary and expedient to do so, the government may by order in writing requisition any land for any public purpose'. The majority of the Supreme Court stated that the words, in the opinion of, necessary or expedient, implied the subjective satisfaction of the provincial government in making the requisition, and that there was no duty to act judicially. Certiorari could not be issued against an executive order. Mahajan and Mukherjea, JJ. dissenting, were of the opinion that the words 'for any public purpose' clearly implied an objective factor which was a condition precedent for requisitioning and a writ of certiorari lay against a quasi-judicial decision.

In *Radeshyam Khare* the majority held that the order under Section 53A of the Central Provinces and Berar Municipalities Act 1922, envisaged only an executive order and it did not confer any implied duty on the government to act judicially, when it considered that a general improvement in the administration of the Municipality necessitated the appointment of an executive officer of a committee for a period not exceeding 18 months. Subba Rao, J., dissenting, pointed out that "the concept of judicial act has been conceived and developed by the English Court with a view to keep administrative tribunals and authorities within bounds. Unless the said concept is broadly and liberally interpreted, the object itself would be defeated i.e. judicial review would become ineffective". The duty to act

33. *Id.* at pp. 227, 230.
34. *Id.* at pp. 236, 243.
36. *Id.* at pp. 133, 134.
judicially would not be expressly conferred, it can be inferred from the cumulative effect of the nature of the rights affected, the manner of the disposal provided, the objective criteria to be adopted, phraseology and the nature of the power conferred, or the duty imposed on the authority, and the other indications afforded by the statute. A duty to act judicially may arise in wholly different circumstances and it is not possible or advisable to lay down a hard and fast rule or an inexorable rule of guidance.  

In Shankerlal v. Shankerlal, the question was whether the order of the company judge confirming sale under Section 179 of the Indian Companies Act 1956 was executive or quasi-judicial. Ayyangar J., held that the executive order was one directed to the regulation or supervision of matters as distinguished from an order deciding the rights of the parties, or conferring or refusing to confer rights to property, which are subject to the adjudication before the Court.

The order was held to be a quasi-judicial order and not an executive order.

What Is Meant by “Quasi-judicial act”

Quasi-judicial implies that the act is not wholly judicial and that it describes not only a duty cast on the executive body or authority to conform to the forms of judicial procedure in performing some acts in exercise of executive power. Gullapalli

37. Ibid.
39. A company was compulsorily wound up. The official liquidator sought the confirmation by the company Judge of the High Court, of the auction sale of certain assets of the Company to the appellants.
40. Id. at p. 511. The test was held to be “whether a matter which involves the exercise of discretion is left for the decision of the authority, particularly if that authority were a court, and if the discretion has to be exercised on objective, as distinguished from a purely subjective condition, it would be a judicial decision”.

case was essentially one of fair hearing. Petitioners were carrying on motor transport business in Krishna District. The Government amended the Motor Vehicles Act in 1956 and nationalised the Road Transport in that District. The scheme was published and objections were invited from the parties. After hearing objections to the proposed scheme the bus routes were nationalised. Petitioners contended that their fundamental rights were violated. The contention was that the government should have acted judicially in hearing the objections. The government, on the other hand, contended that it was discharging an executive duty in approving the scheme in public interest and no rights of the parties were involved in the matter. The majority led by Subba Rao, J., were of the view that the enquiry was quasi-judicial.

In the second Gullapalli case, the question was the same, but this time the Chief Minister passed the orders approving the scheme. Two principles of natural justice were urged against the validity of the order, namely,

(1) no man should be a judge in his own case.

(2) justice should not only be done but manifestly and undoubtedly seem to be done.

42. The reasons addressed were:

(1) The act and the rules framed under it imposed a duty on the government to give personal hearing, while the procedure prescribed by the rules imposed a duty on the Secretary to hear and the Chief Minister to decide. This type of divided responsibility was destructive of the concept of judicial hearing according to which "he who hears should decide".

(2) A person interested in one party should not at any stage take part in the proceeding. Here the Secretary to the Transport, who as the Head of the Department, himself received and enquired. He was thus both a judge and a party, and it offended the principles of natural justice that no one should be a judge in his own case. Id. at p. 327.

The Minister could not be a judge in which the State was a party. Subba Rao, J., distinguished the Minister from Secretary and held that a Secretary was a part of the Department, while Minister was notionally responsible for the disposal of business pertaining to the department and he could not be deemed to be part of it. The plea of bias was rejected.\(^4\)\(^4\)

In *Franklin v. Minister of Town and County Planning*,\(^4\)\(^5\) the House of Lords held that the functions of a Minister under the ‘New Town Act’ were only executive. The orders provided for hearing the objections and enquiry. The Inspectors of Town after enquiry submitted details to the Minister who passed the order. The mode of performing quasi-judicial acts by administrative tribunals have been the subject of judicial decisions in India and England. The House of Lords in *Local Government Board v. Arlidge*,\(^4\)\(^6\) held that when a duty of deciding an appeal was imposed it must act judicially and determine the questions without bias, and provide the parties with an opportunity adequately to present their contentions. The decision should be arrived at in the spirit and with the sense of responsibility of a tribunal whose duty is to mete out justice.

The character of a decision can be determined from the manner in which the decision is arrived at. Whether an act is judicial or quasi-judicial or purely executive depends on the terms of the particular rules and the nature, scope and effect of a particular power in exercise of which the act may be done and would therefore depend upon the facts and circumstances of each particular case.\(^4\)\(^7\) If the statute is silent the nature of the decision must be inferred from the general scheme of the act, its provisions or their objectives. Words like ‘is of the

\(^4\) Id., p. 1380

\(^5\) [1948] A.C. 87.

\(^6\) [1915] A.C. 120.

\(^7\) L. N. Mathur v. Chancellor, Lucknow University, A.I.R. 1986 All. 273, 279. (FB).
opinion 'if it appears to be', 'considers likely to be secured' and 'reasonable grounds to believe' are indicative of subjective approach. The decision is executive even though there is a provision for appeal, or a provision making the order subject to confirmation by some other authority. But if the decision involves a determination of issues between a proposal and an opposition involving the respective rights of the parties, the decision is quasi-judicial.

**Requirement of Judicial Approach**

In *Khusaldas* the decision of public purpose was left to the subjective satisfaction of the authority, and there was no judicial process outlined for determining such a purpose. In the first *Gullapalli* case various provisions of the Act provided the process by which the authority was to decide the public purpose. The essential requirement of judicial approach are the following:

1) It must be a determination upon investigation by the application of objective standards to facts found in the light of pre-existing legal rules.

2) It declares rights or imposes upon parties obligations affecting their Civil rights.

3) The investigation is subject to certain procedural attributes contemplating an opportunity to present its case to a party, ascertainment of facts by means of evidence if the dispute is on a question of fact, and it is...
on presentation of legal argument if the dispute be on a question of law and a decision disposing the matter on findings based upon these questions of law and fact.  

Mere obligation to determine certain preliminary matters objectively does not make the function judicial unless, the law requires these facts to be determined judicially. The determination of public purpose was an objective factor in *Khusaldas*, while incompetence of the Municipal Committee members was an objective factor in *Radeshyam*.

Similarly it is also not necessary that there should be a formal *lis* in order to constitute a quasi-judicial decision. It is sufficient if there are proposals and opposition, and the evidence was taken by the authority. The fundamental difference between an executive and quasi-judicial order is that in the former, the authority will have to conform to judicial process.

**Quasi-judicial Authorities and Fundamental Rights**

After the Supreme Court’s decision in *Ujjam Bai v. State of Uttar Pradesh*, it can be said that it is now virtually impossible to challenge the decision of quasi-judicial authority as offending fundamental rights. The majority judges are of the view that quasi-judicial bodies are deemed to have been invested with power to err within the limits of their jurisdiction and so long as they keep within these limits, their order, however erroneous, is valid and legal until corrected in appeal. However, Subba Rao, J. held that the majority view meant that a fundamental right could be defeated by a wrong order of a

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58. *Id.*, p. 682.
60. *Ibid*.
65. *Id.*, p. 1622.
quasi-judicial officer, and the Supreme Court would merely be a helpless spectator abdicating its functions in favour of a subordinate officer in the Sales Tax Department. He was of the view that the jurisdiction of Supreme Court under Art. 32, could not be restricted or limited by some principle or doctrine not contemplated by the Constitution. But Ayyangar J. held that a quasi-judicial authority by misconstruing a statute, could not impose what the legislature could not do. But if the dissents are accepted as correct the Supreme Court may have to issue the writs not only for the enforcement of fundamental rights, but also for other purposes. The Constitution has not given this power to the Supreme Court.

Unreality of the Distinction

The distinction between executive and quasi-judicial decision is unreal. The distinction is only material for the purpose of issuing the writ of certiorari and for no other purpose. Certiorari cannot be issued unless tribunal exercises judicial functions. The term quasi-judicial was coined to bring under its review executive actions, having some elements of judicial functions.

It is difficult to distinguish between executive and quasi-judicial functions, and between those which are quasi-judicial and strictly judicial. Sir Maurice Swyer defined quasi-judicial power as the power of giving decisions on questions of an executive and non-justifiable character which cannot be determined by reference to any fixed rule or principle of law, but are a matter of executive discretion and judgement. He further stated that judicial decisions are based on law, while quasi-judicial decisions are based on executive and impartial discretion. Robson criticised this view and he said that there is also certain

66. Id., p. 1649.
67. Id., p. 1675.
70. Ibid.
71. Id., p. 320.
amount of discretion in law, and there is also legality in discretion. The decision of a department should show that their decision is within their powers and a desirable one. A question may be in its origin purely executive but later it may acquire judicial character. Many questions calling for decision combine both judicial and executive aspects. There may be cases in which policy is insignificant while in other cases it is of much importance. Robson stated that the administration should state their policy to the administrative tribunal.

Why a decision is considered to be executive in one case and quasi-judicial in another case, it is difficult to state. Sometimes the distinction is sought to be explained by saying that the quasi-judicial power is involved when civil consequences follow upon the act in question. But the explanation is unsatisfactory because in the case when the power is considered to be absolute, life, liberty and property of the person may be taken away to a much larger extent than in any other case.

The important decisions making distinctions between quasi-judicial and executive power are given after a sharp division of opinion. In Khusaldas S. Adwani v. State of Bombay the law in question empowered the government to requisition any premises if it was satisfied that it was for public purpose. Four Judges were of the view that the question of public purpose was not justiciable. While the other two judges were of the view that it was justiciable.

Under Sec. 53A of the Central Provinces and Berar Municipalities Act, the State Government may supersede a Municipal Committee, if the Committee is not competent to perform the duties imposed on it or undertaken by it. Three judges of the Supreme Court held the function of the State Government was

72. Id., p. 332.
73. Id., p. 336.
75. Kania C. J., Fazl Ali, Patanjali Sastri and Das, JJ.
76. Ibid., Mahajan and Mukherjea JJ.
executive and the two judges held that it was quasi-judicial. S. R. Das C. J. expressed that although the power was executive it did not absolve the State Government from observing the ordinary rules of fair play. This seems to be something midway between quasi-judicial and executive.

Under Chapter IV-A of the Motor Vehicles Act, the transport authority may cancel the existing permit and issue a permit to the State Transport undertaking if the scheme is promulgated under the Act. The question was whether the promulgation of the scheme was quasi-judicial or executive. Three judges were of the view that norms of judicial procedure should be observed in exercise of the executive power. While two judges held that in approving the scheme the State Government was performing an executive function.

A sharp division of opinion seems to be inevitable on these questions. It is also the case that the same power which was considered to be executive, in course of time came to be now regarded as quasi-judicial. The determination of the age of a civil servant was an executive one. But in the State of Orissa v. Dr. Binapani Dei, it was held that an opportunity of being heard should be given before any action could be taken. In Shyamlal v. State of Uttar Pradesh, the question of compulsory retirement of a civil servant was regarded as executive, while the recent trend is to regard it as quasi-judicial.

A statute of the Allahabad University laid down that the Vice-Chancellor was responsible for maintaining discipline in the University and he had all necessary power for the purpose. It was held by the High Court of Allahabad that in expelling a

78. Ibid., Dissenting opinion of K. Subba Rao and N. H. Bhagawati JJ.
81. B. P. Sinha and K. N. Wanchoo JJ.
student, the Vice-Chancellor was not under a duty to act judicially.85 A subsequent Full Bench of the High Court held 86 that the powers of the Vice-Chancellor were quasi-judicial.

The distinction between executive and quasi-judicial is not identical with the distinction between subjective and objective. Whenever a Police Officer is satisfied that credible information is received, or he has reason to believe, or reasonable suspicion exists, that a person has committed a cognisable offence he may arrest him without a warrant.87 The power is objective. Similarly Regulation 18B of the Emergency Regulations provided that Secretary of the State may order the taking of a person into preventive detention if he has reason to believe that he is of hostile association. The House of Lords held, with a strong protest from Lord Atkin, that the power conferred on the Secretary of the State was subjective.88

When the power is objective the person exercising the power is under an obligation to establish the condition for its exercise objectively in a Court of Law. When the power is quasi-judicial only procedural opportunities like notice, hearing and impartial tribunal are contemplated. When the power is objective and the condition for its exercise is not satisfied the action may be set aside by a Court of Law. While in the case of a quasi-judicial decision when procedural formalities are observed the decision cannot be set aside, unless there is no evidence to justify the conclusion. As Supreme Court itself observed, it is easy to allege but difficult to substantiate, that the finding is not supported by evidence.89

Under the American Administrative Procedure Act, "Order" is defined to include, legislative, executive and judicial orders.90

86. Gajadhar Prasad v. Allahabad University, A.I.R. 1966 All. 479.
87. Code of Criminal Procedure 1898, Section 54.
90. Section 2 (d)
Orders like those fixing prices of commodities although legislative in character involve rights of the parties processing those commodities. Similarly licencing, though discretionary in theory, is regarded as involving civil rights. Therefore, to revoke a licence, notice and opportunity should be provided. Licencing function is *sui juris* not being exclusively executive, legislative or quasi-judicial.

**Recent Trend**

Judicial and executive functions are basically the same in their character involving some mental process. Both are overlapping. 91 Courts have certain administrative functions and the executive has certain judicial functions. The distinction is very subtle.

Until the Supreme Court's decision in *State of Orissa v. Dr. Binapani Dei*, 92 it was thought that an executive order is non-reviewable. The question in issue was the determination of the age of an Assistant Surgeon working in a government hospital. The Government contended that it was exercising executive function. The contention was rejected and the Court held that 'if there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of the power'. 93

Similarly if an executive order or act contravenes or disregards a statute or statutory rule or made in excess of their authority disregarding principles of natural justice, they are amenable to the jurisdiction of the High Court under Article 226. In *Jay Engineering Works v. State of West Bengal*, 94 the Government directed that the police officers should not interfere in the disputes between the employers and the employees in industrial undertakings. It has the effect of directing the police

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93. Id., p. 1271.
not to exercise their powers under the Criminal Procedure Code, involving Commission of cognisable offences. A Bench of five Judges,\textsuperscript{95} of the Calcutta High Court unanimously quashed the order of the Government and directed the Police to act according to the statutory powers. Thus an order purely executive was quashed.

The Supreme Court itself has said in \textit{A. K. Kraipak v. Union of India},\textsuperscript{96} that "the dividing line between an Administrative power and quasi-judicial power is quite thin and it is being gradually obliterated. For determining whether a power is an administrative power or quasi-judicial power one has to look to the nature of the power conferred, the framework of the law conferring that powers, the consequences ensuing the exercise of that power and the manner in which that power is expected to be exercised."\textsuperscript{97} The Court further emphasised that "the requirement of acting judicially in essence is nothing but a requirement of acting justly and fairly and not arbitrarily or capriciously". The authorities exercising quasi-judicial functions must record reasons in support of their orders.\textsuperscript{98}

\textbf{Judicial Control}

Writ of certiorari or prohibition lies against a quasi-judicial decision if it was given, in excess of jurisdiction or the authority failed to exercise jurisdiction, or in contravention of rules of natural justice and there is a manifest

\textsuperscript{95} \textit{Ibid.}, B. N. Sinha, C. J., D. N. Banerjee, A. N. Ray Amaresh Roy, B. C. Mitra JJ.

\textsuperscript{96} A.I.R. 1970 S.C. 150.

\textsuperscript{97} \textit{Ibid.} Naquishbund was appointed as a member of Selection Board to conduct selections for the officers serving the Forest Service to All India Services. He was acting as Chief Conservator of Forests in the State. He was also an applicant for the promotion. Contention was that the function of Selection Board was administrative. Held that the Selection Board violated the principle of natural justice that no man should be a judge in his own cause; See also, \textit{L. N. Mathur v. Chancellor, Lucknow University}, A.I.R. 1986 All. 273 at 279 (F.B.).

\textsuperscript{98} \textit{Ibid.}
error of law. The Court can order the authority to conform to judicial process. Certiorari would not lie against an executive order.

If an order is purely executive the practice of the courts until recently has been not to interfere with the executive discretion. But the recent trend permits a court to question even an executive order and if necessary to quash it, if it involves evil consequences.

Conclusion

The distinction sought to be drawn between executive and a quasi-judicial decision is quite unclear. The same decision may be from one point of view be regarded as executive and in another point of view regarded as quasi-judicial. A quasi-judicial decision involves certain procedural attributes like natural justice. In recent years the concept of quasi-judicial power has been undergoing a radical change. What was considered as administrative power some years back is now being considered as a quasi-judicial power. The recent trend is in the direction of obliterating the distinction. It seems to be the inevitable consequence because the distinction is unreal and does not stand the test of a critical analysis. Allowing the time-worn distinction to remain is only useful for the purpose of obtaining certiorari or prohibition against authorities exercising quasi-judicial powers in arriving at decisions. The distinction serves no other purpose. When the scope of the writ is very much enlarged allowing of a distinction between executive and quasi-judicial decision appears to be unnecessary.