Prerogative Power In UK

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Introduction

The prerogative is a power possessed by an official in virtue of his or her office; in other words, it is a discretionary power that exceeds with the passage of time and is not affected by any other authority. Most of the time, the prerogative is the term that is used by legal professionals, which refers to an object upon which royal powers are carried out or implemented. Immunities, rights and special powers entitled just to the Crown are termed as Royal Prerogative. These powers have changed the legal framework of the UK. It has altered the legal framework from absolute monarchy to constitutional monarchy. Now, these powers are not just limited to the Crown alone but also to ministers of the constitution. It is mainly because now, most of the prerogatives are represented by the king instead of by the queen directly. In the UK, the Queen has limited powers, and ministers exercise mostly prerogative powers under the authority of the Queen. Ministers who use prerogative powers are directly responsible to the parliament of the UK.

There are several categories associated with royal prerogatives in different areas. For instance, in the judicial system, the Crown has the authority by which he or she grants a special leave concerning the appeal from the colonial courts to be the legal committee. In different areas, these powers have different significance and importance, which ranges from the signing of a treaty to the opening of a parliament. The most prominent concern related to these powers is that the majority of these powers are no longer in the hands of monarchs but are widely exercised by the executives of the government (Lawteacher.net, 2018).

Description

Council of Civil Services Union Vs Minister of Civil Services (GCHQ case)

The government banned intelligence officers of GCHQ from joining the city national council and trade unions. This decision was taken by the powers of the concerned Minister of Civil Service Order in Council in 1982. However, the union challenged this decision by claiming that it had been made under prerogative powers that had not been examined before by the court. Another claim presented by the union is based on the fact that the government did not consult workers, which they think is an unfair

act by the government and should be reviewed again. However, the House of Lords supported the lower court's decision. They rejected the claim made by the union with the fact that national security concerns are the purview of the executives (Publications.parliament.uk, 2018).

Burmah Oil Co Vs. Lord Advocate

The case established the fact that even when powers are still extant, powers possessed by the Crown cannot be used in the same way as they were used in older times. During the Second World War, most of the oil installations were destroyed by British forces so that they would not fall into the hands of the Japanese. The government claimed that this decision was made with the help of prerogative power and that no compensation would be paid to the Burmah Oil Company. However, the House of Lords held that while the government had made a legal decision based on fair use of prerogative powers, the company should be compensated as well. They said that the decision that was taken by the government was for the betterment of its people, so the government should pay for the damages that the company has incurred. This is one of the examples that shows the use of prerogative powers and how they can be used despite the fact that they are still available (swarb.co.uk, 2018).

Laker Airways Ltd vs Department of Trade (1977)

In 1977, Laker Airways proposed to fly a route from the UK to the USA. Before the implementation of this route and flights on this route, air carriers between the two nations needed to be designated. The power to grant permission is beyond the jurisdiction of the Civil Aviation Authority. Because the Crown holds power, the Secretary of State granted the designation, and the CAA found evidence of issuing a license. The license given by the British authority was opposed to the permit appealed to the Secretary of State. The process of appeal was set out in 1971 and was rejected. However, the US government did not grant the designation, and Laker Airways did not carry out its operations. Meanwhile, the British Airways board ordered the CAA to revoke the license as per market conditions. In the court, the Attorney claimed that the use of prerogative power was legal. The court held that the powers used by the Secretary of State were constitutional, and he intended to stop Laker Airways operations. Prerogative powers used in this case were with the purpose of achieving results associated with valid revocation under the statute (Feldman, 2017).

British Broadcasting Company vs Johns (HM Inspector of Taxes)

The case is established by the fact that prerogative powers cannot be broadened. The British Broadcasting Company made the claim that they are entitled to pay taxes with the fact they are a Crown monopoly and are therefore entitled to Crown immunity. The primary argument made by the BBC is that the Crown has the prerogative right to permit a monopoly of broadcasting. However, the Court did not accept the claim made by the BBC and made clear that the king did not assert a monopoly over the BBC. Lord Justice made remarks that 350 years and civil war was too late for the

Queen’s courts (Group, 2018).

Attorney General v De Keyser’s Royal Hotel Ltd

The case was established on the fact that prerogative powers cannot be used when statutory powers replace them. The abeyance principle defines the after-effects of prerogative powers once a statute is passed. The government seized De Keyser’s hotel in London for war use in 1916. The government claimed that this was entirely an act of prerogative powers, but the government is not liable to pay any damages or compensation. The House of Lords rejected the claim made by the government. The House of Lords made clear that Statute law is more essential and significant than prerogative powers. The final decision was taken by the House of Lords because the government would pay the damages caused by them to the owner of the hotel (Clark, 2017).

Conclusion

Royal prerogatives are considered one of the essential elements of the UK’s constitution. Prerogative powers enable ministers to deploy armed forces. Ministers of the government exercise these powers either on their own or by the suggestions or advice they give to the Queen, which she has to follow. Statute law is more supreme than prerogative powers. The use of prerogative powers is active and remains subject to ordinary law duties. However, prerogative powers can be abrogated by statute law, but they can never be broadened. Court rulings have abandoned those circumstances in which prerogative powers will be used.

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