



Principles of Natural Justice



Dr. Sapna Chadah
Assistant Professor
(Constitutional & Administrative Law)
IIPA, N.D.



Objectives of the Session

The objectives of the Session are to:

- **Understand the concept of natural justice;**
- **Describe the principles of natural justice; and**
- **Highlight the applicability of the Principles of natural Justice to administrative actions**



Natural Justice

- **Meaning and scope of the term “natural Justice” is not fixed**
- **Derived from ‘Jus Naturale’- Principles of Natural Law- justice, equity, and good conscience**
- **Implies fairness, reasonableness, and equality**
- **These are procedural principles**
 - **to be followed by administrative authority**
 - **while taking decision which adversely affecting the rights of a individual**



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 their legal authority, they are subject to the controlling jurisdiction of the King's Bench Division.”

*Lord Atkin in R. Vs. Electricity Commissioner
(1924) 1KB 171*

- **Do not supplant the law of the land but only supplement it.**
- **Principles of natural justice are firmly grounded in Articles 14 and 21 of the Constitution.**
- **Rules of natural justice are not embodied rules**
- **Applicability of rule of natural justice to a given case depends on the facts and circumstances of that case**



the duty to act judicially should be an additional requirement existing independently of the authority to determine questions affecting the rights of the subjects. Something superadded to it.”

Lord Hewart CJ. in R Vs. Legislative Committee of the Church Assembly (1928) 1K.B. 411



Natural Justice when Invoked ?

Applicability

- Earlier rules of natural justice applied only in case of acts regarded as judicial or quasi-judicial.
- Now for application of rules of natural justice, the characterization of the nature of the action as judicial, quasi-judicial or administrative has no role to play.
- It is the consequences of the action which matter.
- Natural justice will always apply whenever any action prejudicially affects the “civil rights” of the individual.

- The dividing line between an administrative power and a quasi-judicial power is quite thin and being gradually obliterated.
- The requirement of acting judicially in essence is nothing but a requirement to act justly and fairly and not arbitrarily or capriciously.

A. K. Kraipak vs Union of India AIR 1970 SC150





Basic Principles of Natural Justice

- Traditionally, natural justice comprises two rules.
- *Nemo Judex in causa sua*
 - Rule against bias
 - No man shall be a judge in his own cause
- *Audi Alteram partem*
 - Rule of fair hearing
 - Hear the other side or
 - No one should be condemned unheard
- Third rule recognized by Judiciary over period of time –
Reasoned Decision or Speaking Order



Rule against Bias

- **Bias’ means an operative prejudice- “strong views” or “preconceived ideas”**
- **This principle is based on the following rules**
 - **No one should be a judge in his own cause.**
 - **Justice should not only be done, but manifestly and undoubtedly be seen to be done.**
- **The rule requires**
 - **the judge must be impartial and**
 - **must decide the case objectively**
 - **on the basis of evidence**

Kinds of Bias

- **Pecuniary bias-** monetary/ economic interest in the subject matter of the dispute.
- **Personal bias-** arises due to personal equations like friendship, relationship, business or professional association, or animosity
- **Subject matter bias-** judge has general interest in the subject matter in dispute

Test for Bias

- To challenge the administrative action on ground of bias it is essential to prove that there is real likelihood of bias.
- The test is whether a reasonable man in possession of relevant information would have thought that bias was likely to affect the decision in the given case.



Exception of Rule against Bias

Doctrine of Necessity

- there are certain extreme cases in which substitution/replacement of impartial adjudicator is not possible.
- In such situations, the principle of natural justice, under necessity has to give way.





Right of Hearing

Meaning

- **No one shall be condemned unheard i.e. Reasonable opportunity must be given to a person before taking action against him**
- **Flexible, maleable and adoptable concept.**
- **Admits situational modification. It also have capability and quality of reconciling hurry and hearing**
- **Right to fair hearing is a code of procedure**
- **Covers every stage through which administrative decision-making passes.**

Contents

Notice

- **must be reasonable and unambiguous**
- **containing time, place, charges, nature of hearing and other particulars.**
- **A defective notice vitiates all subsequent proceedings would be vitiated.**
- **Adequate opportunity to present one's Case.**

Fair Hearing

- **Right to present case and evidence**
- **Right to rebut evidence or Cross-Examination**
- **No evidence should be taken at the back of the other party**
- **Disclosure of Information-Report of the enquiry to be shown to the other party.**



Post-decisional hearing

- The concept of post-decisional hearing is now gradually getting recognition to satisfy the requirement of *audi alteram partem* rule
- Not a general rule but an exception
- Only justified where antecedent hearing would frustrate the very object of the administrative action.
- remedial in nature with full and fair hearing
- To be conducted by the same authority which earlier considered the matter.



Speaking Order



Reasons

- **Reasons are link between material considered and final decision reached.**
- **Reasons are harbinger between the mind of the decision-maker and the decision or conclusion arrived at.**
- **Provides considerable assurance that the decision will be better as a result of its being properly considered.**
- **Enables the party to plan for appeal/revision if such right exists.**

Reasons : Its Basis

- **The Rule of Law**
- **Justice should be seen to be done**
- **Arts, 32, 136, 226 and 227 of the Constitution**
- **Natural Justice**



Adequacy of Reasons

- mere pretence of compliance with it would not satisfy the requirements of law
- need not be as elaborate as in a Court decision,
- but have to be adequate, proper and intelligible, sufficiently clear and explicit
- Mechanical and stereotype reasons not adequate





Effect of Breach of Natural Justice



- **the general judicial opinion is the order is void**
- **In England, in the case of Ridge v. Baldwin (1964) A.C. 40, the court held the decision of the authority void on the ground of the breach of the rule of fair hearing.**
- **In India, the position is well settled that the order passed in violation of the principles of natural justice is void.**



Exclusion of Application of Rules of Natural Justice

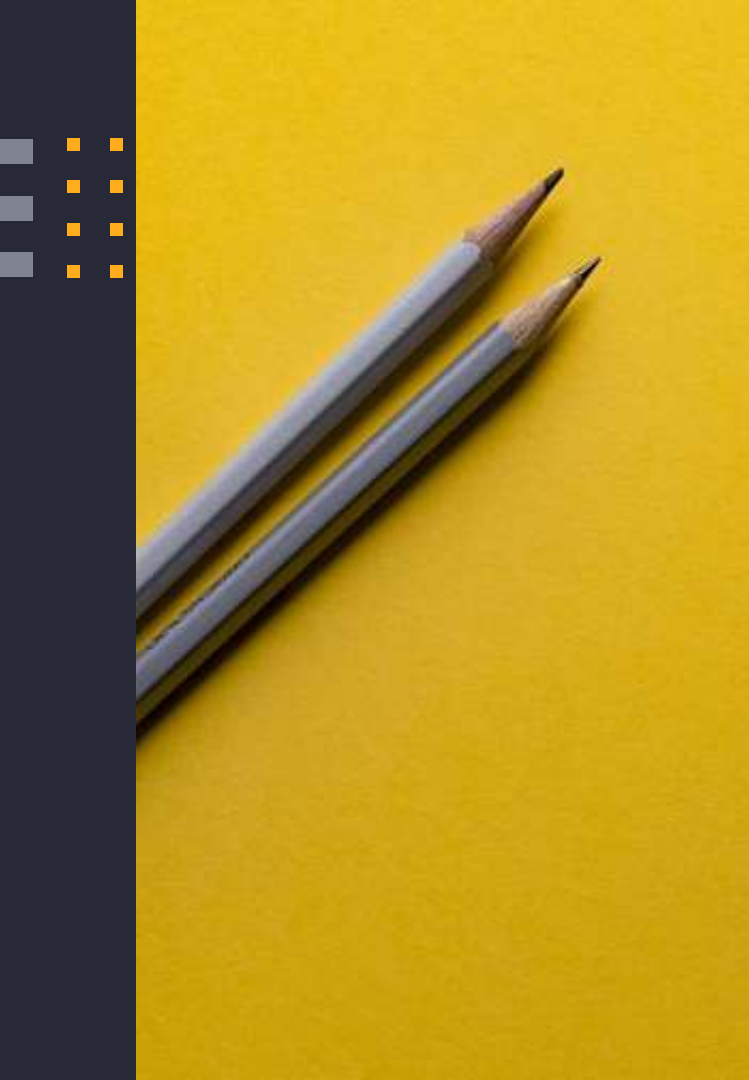
Exclusion of Principles of Natural Justice

- **Application of the principles of natural justice can be excluded in the following circumstances**
 - **Statutorily exclusion**
 - **Emergency**
 - **Confidentiality**
 - **Routine matters**
 - **Impracticability**
 - **Interim preventive action**
 - **Legislative action**
 - **No right of the person is infringed.**

Questions

- **What is meant by Natural Justice?**
- **What are the basic principles of natural justice?**
- **When do the principles of natural justice apply?**
- **What test is applied by courts to find bias?**
- **What are the requirements of fair hearing?**
- **Under what circumstances the application of Natural Justice is excluded?**





Thanks!

Any questions?

