



Administrative Law

Principles of Natural Justice

The Principles of Natural Justice-Introduction

- ▶ The principle of natural justice or fundamental rules of procedure for administrative action are neither fixed nor prescribed in any code
- ▶ Acc. to De Smith, the term natural justice expresses the close relationship between common law and moral principles and has an impressive ancestry
- ▶ It is substantial justice, fair play in action, universal justice
- ▶ Principles of natural justice control all actions of public authorities by applying the rules relating to reasonableness, good faith and justice, equity and good conscience
- ▶ Rules of natural justice are indeed great assurances of justice and fairness---
Union of India v Tulsiram Patel (AIR 1985 SC)
- ▶ *PNJ are placed so high that it has been declared----*
- ▶ *'no human laws are of any validity, if contrary to this' and*
- ▶ *that a court of law could disregard an Act of Parliament if it is contrary to natural law'*

Object:

- ▶ The underlying object

The Principles of Natural Justice

- ▶ **The administrative authorities entrusted with the quasi-judicial functions are required to act with fairness and in a just and equitable manner.**
- ▶ **They should follow the principle of Natural Justice.**
- ▶ **There are generally three principles which are considered as the integral part of the principle of Natural Justice.**

Natural justice....

- ▶ Rule against bias
- ▶ Audi alterum partem
- ▶ Reasoned Decision or Speaking Orders
- ▶ Rule against bias
- ▶ The administrative authority who exercise quasi –judicial function should be impartial. He **should** not have any interest in the subject matter or in the parties to the dispute.



Rule against bias

- ▶ The principle of rule against bias is based on two principles
- ▶ No man shall be a judge on his own cause .
- ▶ (nemo debet esse judex in propria causa)
- ▶ Justice should not only be done , but manifestly and undoubtedly be seem to be done

The rule against bias disqualifies any authority from deciding any dispute if he has any interest in the subject matter or in the parties to the dispute.

Bias is of three types

- ▶ Pecuniary bias- the administrative authority exercising quasi judicial function may not have any pecuniary benefit from the subject matter of the dispute. If there is any pecuniary interest he is acting against the principle of natural justice.
- ▶ In Mohapatra & Co. State of Orissa (1984) 4 SCC 103
- ▶ a committee was constituted by the government for the selection of some books for educational institutions. some of the members of the committee were authors of the books. The committee selected the books of the author members. The court held that there was possibility of pecuniary bias and the selection was set aside.
- ▶ Dimes v Grand Junction Canal 1852 HLC
- ▶ N B Jeejeebhoy c Collector of Thana –reconstituted new bench as judge member of co operative society –the party to dispute




Rule against Bias

- Personal bias
- Personal bias may arise from friendship, relationship, enmity, personal grudge, or professional rivalry.
- A person who is a relative, friend, or enemy of the disputing parties is disqualified from acting as a judge.
- Eg. Being a candidate for selection as well as a member of the selection board.

Rule against bias.....

- ▶ Bias as to the subject matter (official bias)
- ▶ If the authority who has power to decide a dispute has a general interest in the subject matter of the dispute he is disqualified from acting as a judge.



Audi alterum partem (Here the other side)

- ▶ The second essential condition of the principle of natural justice is that the person against whom an action is proposed to be taken should be given a reasonable opportunity to defend himself.
- ▶ no man should be condemned unheard or both sides should be heard before passing an order.

Audi alterum partem...

- ▶ Ingredients of fair hearing are:
- ▶ Notice
- ▶ Opportunity of Hearing.
- ▶ Notice
- ▶ Before an action is taken the affected party must be given a notice to show cause against the proposed action and seek his explanation.
- ▶ The notice should contain the time , place, and the nature of hearing.
- ▶ the proposed action and the allegations against the person should be made clear in the notice.

Audi alterum partem

- ▶ Opportunity of Hearing
- ▶ The authority should give full opportunity to the affected party to produce all the relevant evidence in support of his case.
- ▶ The authority must disclose all evidence or materials placed before it in the course of proceedings.
- ▶ Any material or evidence adduced by one party cannot be utilized against the other party unless the opportunity to explain, criticize, or rebut the evidence is given to the other party.

Speaking orders or Reasoned decision

- ▶ Speaking order means an order which contains the reasons for the decisions.
- ▶ Giving reasons in support of an order is considered to be a third principle of natural justice.
- ▶ The main advantages of reasoned decision are-
- ▶ the party aggrieved will get an opportunity to raise a contention before the appellate authority or revisional court that the reasons which persuaded the authority to reject the case is erroneous .
- ▶ It minimize chances of arbitrariness and ensures fairness in the decision making process.
- ▶ It introduces clarity in the decisions .