Principles of Natural Justice

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Principles of Natural Justice

- Derived from the word 'Jus Natural' of the Roman law and it is closely related to Common law and moral principles but is not codified.
- 'Natural Justice' - an expression of English common law.
- In the English decision, Local Government Board v. Arlidge, (1915) AC 120 (138) HL Viscount Haldane observed "...those whose duty it is to decide must act Judicially. They must deal with the question referred to them without bias and they must give to each of the parties the opportunity of adequately presenting the case made. The decision must come to the spirit and with the sense of responsibility of a tribunal whose duty it is to meet out justice."
- Rules - not generally embodied & not fixed by any code
- Developed to secure justice and to prevent miscarriage of justice
- Based on the maxim - ***Justice should not only be done but should manifestly be seen to be done***

The Three Principles

- Rule against Bias
- Rule of Fair Hearing
- The third principle - developed in course of time is that the order which is passed affecting the rights of an individual must be a speaking order.
- Applicable to administrative and quasi-judicial proceedings
- "Natural Law does not mean the law of the nature or jungle where lion eats the lamb and tiger eats the antelope but a law in which the lion and lamb lie down together and the tiger frisks the antelope."

Significance of Principles of Natural Justice

- **An essential inbuilt component of the mechanism, through which decision making process passes, in the matters touching the rights and liberty of the people**
- **A procedural requirement but it ensures a strong safeguard against any Judicial or administrative; order or action, adversely affecting the substantive rights of the individuals.**
- **In the United States of America - observance of principles of natural Justice is secured by taking advantage of the phrase 'due process'.**
- **In Mohinder Singh Gill v. Chief Election Commissioner**, (AIR 1978 SC 851), the SC observed- **"Indeed, natural justice is a pervasive facet of secular law where a spiritual touch enlivens legislation, administration and adjudication, to make fairness a creed of life. It has many colours and shades, many forms and shapes and, save where valid law excludes, it applies when people are affected by acts of authority. It is the bone of healthy government, recognised from earliest times and not a mystic testament of judge-made law. Indeed from the legendary days of Adam-and of Kautllya's Arthashastra-the rule of law has had this stamp of natural justice, which makes it social justice. We need not go into these deeps for the present except to indicate that the roots of natural justice and its foliage are noble and not new-fangled. Today its application must be sustained by current legislation, case law or other extant principle, not the hoary chords of legend and history. Our jurisprudence has sanctioned its prevalence even like the Anglo-American system."**

Constitutional Foundations of Principles of Natural Justice

- **Rule against Bias**:
  - Right to Equality & Rule against Arbitrariness (Art.14)
  - Prohibition of Discrimination against Citizen by State-Art.15(1) & (2)
  - Prohibition of Discrimination against Citizens in Public Employment by State-Art.16(2)
- **Right to Legal Representation** (Art.22 and 39-A)
- **Rule of Fair Hearing**: Procedure established by Law U/A 21
- **Concept of Due Process of Law** - now implicit under Art.21
- **Rule of Fair Trial** **etc**

Rule against Bias

- Originates from maxim- Nemo debet esse judex in propria sua causa (no man can be a judge in his own cause)
- **The rule disqualifies a person from deciding a dispute in which he has- pecuniary bias; personal bias; or bias relating to subject matter**
- **Includes Pre-conceived notion bias**
- **Instances: Personal bias - A.K.Kraipak v. UoI** (AIR 1970 SC 150)
- In Manak Lal v. Prem Chand (AIR 1957 SC 425), where a committee was constituted to enquire into the complaint made against an Advocate, the Chairman of the Committee was one who had once appeared earlier as counsel for the complainant. Constitution of such a committee was held to be bad and it was observed, "*in such cases the test is not whether in fact the bias has affected the Judgment; the test always is and must be whether a litigant could reasonably apprehend that a bias attributed to a member of the Tribunal might have operated against him in the final decision of the Tribunal.*"

Basis of Rule against Bias

- The rule against bias is based on three maxims.

1. ***Nemo debet esse judex in propria causa*** **-No man shall be a judge in his own cause**

2. **Justice should not only be done, but manifestly and undoubtedly be seen to done.**

3. **Judges like Caesar's wife should be above suspicion.**

- **Pecuniary bias- Dimes v. Grand Junction Canal & Co** [1852, H. of Lords]**- the decision of LC in favour of the Canal company-quashed by House of Lords since he was a shareholder in the co.** ***"it is obvious that pecuniary interest, howsoever small it may be, In a subject matter of the proceedings, would wholly disqualify a member from acting as a judge"***.

- **See Jeejeebhoy v.Asst.Collector of Thana (AIR 1965 SC 1096)- Js Gajendragadkar reconstituted the Bench for hearing a case on the ground that he was a member of the cooperative society for which the land in dispute was acquired.**

Rule against Bias

- **Bias relating to subject matter – Gullapalli Nageswara Rao v. APSRTC** (1959,SC) – scheme for nationalization of motor transport notified by State Govt.-quashed since the Secretary who initiated scheme and who heard objections was the same
- In **S.P.Kapoor V. State of H.P.** (AIR 1981 SC 2181) , when the Departmental Promotion Committee considered the confidential reports of the candidates prepared by an Officer who himself was one of the candidates for promotion, the selection was quashed
- **Bias – No need of actual/real likelihood**
- **Even reasonable likelihood is a vitiating factor**
- "..... *The reason is plain enough. Justice must be rooted in confidence, and confidence is destroyed when right minded people go away thinking, the Judge was biased*"…. Lord Denning observed in **(1969) 1 OB 577, Metropolitan Properties Ltd. v. Lannon**
- But the suspicion should be that of reasonable people and must not be that of capricious and unreasonable person.

Rule of Fair Hearing

- Based on the maxim – *Audi alteram partem* (no man shall be condemned unheard) – hear the other side
- Rule of fair hearing
- **Ingredients** :

✓**Notice (definite, effective and adequate)**

✓**Right to disclosure of evidence**

✓**Right to legal representation**

✓**Right to produce evidence**

✓**Opportunity to rebut and cross examine**

✓**One who decides must hear (Institutional Decision)**

✓**Reasoned decision (since emerged as the third principle)**

✓**Post decisional hearing**

- In Hiranath Misra v. Principal, Rajendra Medical College (AIR 1973 SC 1260), the request for opportunity to cross-examine the witnesses was refused, which was upheld by the Supreme Court. The boy students of the Medical College had misbehaved with the girl students residing in Hostels.SC held that the action of the Principal was correct and observed *"The reason is obvious. No witness will come forward to give evidence in the presence of the goonda. However unsavoury the procedure may appear to a judicial mind, these are facts of life which are to be faced."*
- In Swadeshi Cotton Mills v.Union of India [(1981) 1 SCC 664] ,an order taking over the management of a company by the Government without prior notice or hearing was held to be bad and contrary to law….The judgment emphasized the need for the government to adhere to the principles of natural justice, which include providing a fair hearing, unbiased decision-making, and presenting proper evidence before taking any action against a company.
- The Chairman,SBI and another v. M.J.James (SC,16 November, 2021)- The respondent was aware that his request to be represented by a representative of his own choice had been rejected. Even then he took time and decided not to file an appeal before the Board of Directors against the order of the inquiry officer rejecting his request. He allowed the inquiry proceedings to continue and then filed an application for production of documents. When asked about relevancy, his stance was he had his own reasons on how the documents were relevant. In spite of ample opportunity, the respondent did not adduce evidence or examine witnesses, and abruptly stood up and walked out. Observations and findings in the disciplinary proceedings on the aspect of irregularities regarding exceeding his authority in the grant of advances, acceptance of discovery bills and the issue of bank guarantees etc. are clear and remain uncontroverted. The respondent's defence in the form of alibi that he had followed the oral instructions of the then Chairman and the Director, which is of questionable merit, is to be rejected as unproven. **…..Dismissal of the bank Officer from service was upheld**

Principle of Reasoned Decisions

- The value of reasoned decisions as a check upon the arbitrary use of administrative power seems clear....
- The right to know the reasons for a decision which adversely affects one's person or property is a basic right of every litigant (and that whether the forum be judicial or administrative). But the requirement that reasons be given does more than merely vindicate the right of the individual to know why a decision injurious to him has been rendered. For the obligation to give a reasoned decision is a substantial check upon the misuse of power. The giving of reasons serves both to convince those subject to decisions that they are not arbitrary and to ensure that they are not, in fact, arbitrary. The need publicly to articulate the reasoning process upon which a decision is based, more than anything else, requires the Magistrate (judicial or administrative) to work out in his own mind all the factors which are present in a case. A decision supported by specific findings and reasons is much less likely to rest on caprice or careless consideration. As Judge Jerome Frank well put it in language as applicable to decisionmaking by administrators as by trial judges, the requirement of reasons has the primary purpose of evoking care on the part of the decider. . . . ."…..A Passage from "American Administrative Law" by Bernard Schwartz at page 163
- Basically, it has 3 grounds on which it relies:-

✓The aggrieved party has the chance to demonstrate before the appellate and revisional court that what was the reason which makes the authority to reject it.

✓It is a satisfactory part of the party against whom the decision is made.

✓The responsibility to record reasons works as obstacles against arbitrary action by the judicial power vested in the executive authority.

Flexibility of Principles of Natural Justice

- In **State of U.P. v. Sudhir Kumar Singh and Others** [(2020) SCC Online SC 847], the SC laid down four propositions:

✓(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the *audi alteram partem* rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

✓(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

✓(3) No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

✓(4) In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused.

Exclusion of Principles of Natural Justice

- Exclusion: May be express or implied

✓By statutory provisions – eg: Urgent land acquisition

✓By constitutional provisions – e.g: Second proviso to Art.311(2) - See Union of India v. Tulsiram Patel (AIR 1985 SC 1416)

✓In case of legislative acts

✓Exclusion in public interest

✓In case urgency/necessity

✓In case of impracticability

✓In case of confidentiality

✓In case of academic adjudication etc

Effect of Breach of Natural Justice

- The action in violation of breach of natural justice– void
- In exceptional cases – post decisional hearing can be given
- the principles – initially used to be applied to courts of law alone but later on from judicial sphere it extended, to the tribunals exercising quasi-judicial functions and then to the statutory authorities and the administrative authorities, who have upon them, the responsibility of determining civil rights or obligations of the people.
- Administrators- bound to follow the Principles of Natural Justice while taking a decision affecting the civil rights and obligations of the citizens.
- After all, administrative power in a democratic set-up is not allergic to fairness in action and discretionary executive justice cannot degenerate into unilateral injustice. Nor is there ground to be frightened of delay, inconvenience and expense, if natural justice gains access. For fairness itself is a flexible: pragmatic and relative concept, not a rigid, ritualistic or sophisticated abstraction. It is not a bull in a china shop nor a bee in one's bonnet. Its essence is good conscience in a given situation: nothing more- but nothing less. (SC in Mohinder Singh Gill Vs. The Chiief Election Commissioner,AIR 1978 SC 851)

Thank You