

# Principles of Natural Justice

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# Principles of Natural Justice

- '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*
- Encompass Rule against bias & Rule of fair hearing
- 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."

# Constitutional Foundations of Principles of Natural Justice

- **Rule against Bias:** Rt.to Equality & Rule against Arbitrariness (Art.14)
- **Right to Legal representation** (Art.22)
- **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 iudex 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; pecuniary bias- *Dimes v. Grand Junction Canal & Co* [1852,H. of Lords]- the decision of LC in favour of the Canal company- quashed by H.of Lords since he was a shareholder in the co.
- 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
- Bias – **No need of actual/real likelihood**
- Even **reasonable likelihood is a vitiating factor**

# 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, right to disclosure of evidence, right to legal representation, right to produce evidence, opportunity to rebut and cross examine, one who decides must hear & reasoned decision, Post decisional hearing

# Exclusion of Natural Justice

- May be express or implied
- By statutory provisions – eg: Urgent land acquisition
- By constitutional provisions – eg: Second proviso to Art.311(2)
- 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.

**Thank You**