

Principle of Natural Justice

Vani Sharma, Department Of Law
Galgotias University, Yamuna Expressway Greater Noida, Uttar Pradesh
E-mail id - vani.sharma@galgotiasuniversity.edu.in

ABSTRACT: *Natural justice is an expression of common English law, which requires a fairness procedural requirement. In the study of administrative law, the concepts of moral justice have considerable importance. Natural justice values are not laws that are embodied or codified, they are laws made by judges and are perceived to be equivalent to the American due process and procedures. In India, under Article 14 & 21 of the Constitution, natural justice values are deeply entrenched and assured. The primary goal of these values is to help and deter a miscarriage of justice by safeguarding an individual's rights. They further guarantee that a decision is just, equitable and rational by the relevant authority. In India, Article 14 & 21 of the Constitution, the ideals of natural justice are strongly anchored. With the inclusion of Article 21 of the notion of substantive and formal due process, all the equity found in the standards of natural justice can be read within Article 21.*

KEYWORDS: *Administrative Law; Constitution of India; Fairness; Natural Justice.*

INTRODUCTION

The Natural Justice Theory is derived from the Roman law 'Jus Natural' which is closely related to but not codified by common law and moral standards. That is a law of existence that does not originate from any constitution or legislation. The theory of natural justice is adhered to with supreme priority for all people of a civilized society. The Supreme Court gave its command in the ancient days of equal procedure, at the time when industrial areas governed with a harsh and rigid law to employ and burn, with the passing of period and the creation of civil, justice and economic legislative security for the workers[1].

Natural justice clearly involves having a fair and reasonable decision-making mechanism on a given issue. Often, what the correct decision is does not matter, because fundamentally, what matters is the process and who is interested in making the reasonable decision. Under the definition of 'fairness,' it is not limited to various colours and tones that vary from the background[1].

Natural justice essentially consists of 3 laws. The first is the hearing law, which specifies that an equal chance should be granted to the person or party impacted by the decision taken by the panel of expert judges to demonstrate their point of view in order to justify themselves[1].

Furthermore, "Bias rule" usually states that when taking the decision, the expert panel should be biased free of charge. The decision should be taken in a free and equal way that will uphold the concept of natural justice[2].

And thirdly, "Reasoned Decision" which sets out the order, decision or judgment issued by the presiding authority by the court on a fair and rational basis[3].

In behaving judicially or quasi-judicially, such as panchayat and tribunals etc., natural justice may also be asserted. Which involves the notion of equity, universal moral values and different forms of prejudices and why natural justice is essential and what all special situations or conditions entail where the principles of natural justice are not relevant[3].

In order to protect public interests from an unreasonable decision by an executive body, the standards of natural justice have been accepted and practiced by the judiciary. It can clearly be shown that the idea of natural justice requires the notion of equality: they remain alive and serve to safeguard fair dealing[3].

Thus, if any jurisdiction is released from the judicial role, it is not solely recognized at all levels of the proceeding, but the principal's primary motive is to avert the miscarriage of justice. It is necessary to remember that any decision or order that contradicts natural justice would be considered null and void in nature, so it must be borne in mind that the concepts of natural justice are crucial for any administrative settlement to be held legitimate[4].

The theory of natural justice does not limit the applicability of the principle to restricted walls, but relies on the features of power, the granting of administrative authority and the essence of the individual's rights affected[4].

The role and authority of administrative agencies in a welfare state such as India is growing at a rapid pace and it took an hour to quickly extend state responsibility and civic interests of people to confer administrative discretion. With the extension of the administrative authority's discretionary control, disciplinary initiatives should be armed with ample power to discourage the misuse of discretion. In this regard, countries such as India, portion of natural law, i.e. fair play in motion, have to be sought and reproclaimed by the judiciary in order to preserve intact the dominance of the rule of law in India[5].

In this regard, the author submits that 'the laws of natural justice which operate only in places which are not protected by validly made law,' those ancient judicial judgments of the Supreme Court and of the other High Court must be reconsidered and the correct view is that the principles of natural justice must be proclaimed to be the required corollary of the Law, that they must operate in the presence and also in contravention of the existing law where the principles of natural justice are properly held to be the corollary of the Law[5].

In administrative law, Natural Justice is an essential principle. The ideals of natural justice The basic rules of practice are the preliminary foundations of every country's successful institutional set-up. The definition and theory of the Natural Justice Ideals and its implementation in the method of delivery of justice is not recent. It has had its place since the beginning of the era of judicial distribution. Natural justice, which requires a procedural principle of equity, is an expression of English common law. In administrative law, it is a major term[6].

In administrative law, Natural Justice is an essential principle. The word natural justice means universal principles of justice, which are made available during the trial to all litigants. Natural justice values are based on reason and enlightened public policy. These values are adopted in all situations. These standards refer to decisions by all executive departments, tribunals and all courts' judgments. The value of the concept of natural justice has acquired momentum in today's society, and it is now the essence of every legal structure[6].

The key goal behind the reconciliation of the inclusion and absence of the defence of the Values of Natural Justice is the harmonious establishment of the equal rights of persons to be heard and to be equal, as well as the welfare of the public. Larger public interest is to be permitted to override the interest of the person where the justice demands After examining the principles of natural justice, it can be inferred that the Courts in India and England have created numerous exceptions to the provision of the Principles of Natural Justice and the practice thereof in relation to administrative proceedings[6].

DISCUSSION

Although the principle of natural justice is not given in the Indian constitution, it is considered a required aspect for justice administration. Natural justice is a principle of common law that originates from "jus natural," meaning the law of nature. Natural justice in its layman terms suggests the natural meaning of what is right or wrong. 'Natural' justice is not justice inherent in nature; it is a compendium of principles that may be applied to justice naturally, whether or not these concepts are implemented into legislation. A true civilizing power is justice. It means that in the management of human activity, the rule of law prevails rather than the laws of nature[7].

In regulatory discretion, natural justice has a rather wide scope. Its goal is to avoid unlawful actions and injustices against civilians by the regulatory authorities. The notion of natural justice was limited to judicial hearings alone, but with the rise of the welfare state the powers of the regulatory bodies have greatly expanded, as a consequence of which it became difficult for legislation to assess the fairness of the proceedings to be pursued by each body when adjudicating any conflicts or quasi-judicial proceedings[8].

Nemo Judex In Causa Sua means law against bias. It is the first concept of natural justice that states that no one must be a judge in his own case, or that a decision-making body must be unbiased and neutral in determining any case. The concept thus means that in cases in which a judge or a decision-making official is accused of being biased and partial, he/she shall be excluded from deciding any case before them. It articulates that justice should be done not only but seen to be done[8].

Audi Alteram Partem This involves listening from the other side, too. This is the second most basic law of natural justice, which specifies that no one can be condemned unheard. The equal opportunity to be heard shall be provided in cases where a person against whom some action is pursued is to be taken and his right or benefit is impaired[8].

In India's Constitution, the word Natural Justice is never used anywhere. The sacred thread of natural justice, however, passed through the body of the Indian constitution sagaciously. The constitution's preamble contains the terms, "social, economic and political justice," equality of expression, opinion, worship... And equitable status and opportunity, which not only guarantees parity of people's social and economic lives, but also serves as a protection for independence for citizens from the arbitrary behaviour that is the cornerstone of natural justice values[9].

In addition to the preamble, Art 14 guarantees equality before the law and equal treatment of the law for the people of India. Art 14, which is at the origin of arbitrariness, and Art 21, which ensures the right to life and equality, which is the basic law for the preservation of freedom and dignity of life. Art 22 assures natural fairness and provides the accused citizen with a fair trial. In particular, the Directive Principles of State Policy Article 39-A takes account of the social, economic and political backward parts of the population and to fulfil this aim, i.e. to provide free legal assistance to indigent or disadvantaged people, and Article 311 of the Constitution provides civil servants with constitutional protection[9].

Furthermore, in cases of violation of any human right, including the ideals of natural justice, Articles 32, 226, and 136 include statutory remedies. In this brief introduction, the author undertakes to examine some of the basic clauses comprising some aspects of the Natural Justice Theory[10].

In India, Article 14 & 21 of the Constitution, the ideals of natural justice are strongly anchored. With the inclusion of Article 21 of the notion of substantive and formal due process, all the equity found in the standards of natural justice can be read into Article 21. Infringement of the ideals of natural justice ends in arbitrariness; thus, infringement of natural justice is in defiance of Article 14 of the Equality Clause[10].

CONCLUSION & IMPLICATION

In order to protect public interests from an unreasonable decision by an executive body, the standards of natural justice have been accepted and practiced by the judiciary. It is necessary to remember that any decision or order that contradicts natural justice would be considered null and void in nature, so it must be borne in mind that the concepts of natural justice are crucial for any administrative settlement to be held legitimate.

The concept of natural justice is not limited to restricting the applicability of the principle to walls, but relies on the features of jurisdiction, the granting of regulatory power and the essence of the individual's rights affected.

REFERENCES

- [1] R. Silwal, "Principle of Audi Altrem Partem in Administrative Function: Neplease Case Laws," *SSRN Electron. J.*, 2012, doi: 10.2139/ssrn.2158783.
- [2] M. Kosmulski, "Nemo iudex in causa sua?," *J. Informetr.*, 2012, doi: 10.1016/j.joi.2012.06.003.
- [3] P. J. Malysz, "Nemo iudex in causa sua as the basis of law, justice, and justification in Luther's thought," *Harvard Theological Review*. 2007, doi: 10.1017/s0017816007001629.
- [4] G. Schwarzenberger, "The Nemo Judex in Sua Causa Maxim in International Judicial Practice," *Anglo. Am. Law Rev.*, 1972, doi: 10.1177/147377957200100402.
- [5] M. Sahu, "Principle of Natural Justice in South Africa," *SSRN Electron. J.*, 2016, doi: 10.2139/ssrn.2765896.
- [6] M. Kosmulski mkosmuls@abo.fi, "Nemo iudex in causa sua?," *J. Informetr.*, 2012.

- [7] L. Pearson, "Procedural fairness: The hearing rule," in *Australian Administrative Law: Fundamentals, Principles and Doctrines*, 2007.
- [8] B. A. F. Alserhan, "Nemo Judex in Sua Causa: Apparent Bias Prevention in Jordanian Law - Comparative Analytical Study of Judges Disqualification Cases," *Global Journal of Comparative Law*. 2017, doi: 10.1163/2211906X-00602003.
- [9] H. Barnett, "The rule against bias: nemo iudex in causa sua," in *Constitutional & Administrative Law*, 2020.
- [10] P. Szudejko, "Selected issues of legal interpretation in the jurisprudence of the Constitutional Court.," *Polish Law Rev.*, 2016, doi: 10.5604/24509841.1232095.
- Gaurav Verma, Harsh Agarwal, Shreya Singh, Shaheem Nighat Khinam, Prateek Kumar Gupta and Vishal Jain, "Design and Implementation of Router for NOC on FPGA", International Journal of Future Generation Communication and Networking (IJFGCN), Vol. 9, No. 12, December 2016 page no. 263 – 272 having ISSNNo. 2233-7857 .
 - Nisha Pandey, B. S. Chowdhary , Bhagwan Das , D. M. Akbar Husain , Vishal Jain , Tanesh Kumar, "Design of Data Processing Device on Low Power SPARTAN6 FPGA", International Journal of Control and Automation (IJCA).
 - Sujeet Pandey, Puneet Tomar, Lubna Luxmi Dhirani, D. M. Akbar Hussain, Vishal Jain, Nisha Pandey, "Design of Energy Efficient Sinusoidal PWM Waveform Generator on FPGA", International Journal of Signal Processing, Image Processing and Pattern Recognition (IJSIP), Vol. 10 No. 10, October, 2017, page no. 49-58 having ISSN No. 2005-4254.
 - V.M. Prabhakaran, Prof S.Balamurgan ,A.Brindha ,S.Gayathri ,Dr.GokulKrubaShanker,Duruvakkumar V.S, "NGCC: Certain Investigations on Next Generation 2020 Cloud Computing-Issues, Challenges and Open Problems," Australian Journal of Basic and Applied Sciences (2015)
 - V.M.Prabhakaran, Prof.S.Balamurugan , S.Charanyaa, "Data Flow Modelling for Effective Protection of Electronic Health Records (EHRs) in Cloud", International Journal of Innovative Research in Computer and Communication Engineering, Vol. 3, Issue 1, January 2015
 - R. Santhya, S. Latha, S. Balamurugan and S. Charanyaa, "Further investigations on strategies developed for efficient discovery of matching dependencies" International Journal of Innovative Research in Science, Engineering and Technology Vol. 4, Issue 1, January 2015