

Introduction

Principle of Natural Justice is 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. It is a law of nature which is not derived from any statute or constitution. The principle of natural justice is adhered to by all the citizens of civilised State with Supreme importance. In the ancient days of fair practice, at the time when industrial areas ruled with a harsh and rigid law to hire and fire, the Supreme court gave its command with the passage of duration and establishment of social, justice and economy statutory protection for the workmen.

Natural justice simply means to make a sensible and reasonable decision making procedure on a particular issue. Sometimes, it doesn't matter what is the reasonable decision but in the end, what matters is the procedure and who all are engaged in taking the reasonable decision. It is not restricted within the concept of 'fairness' it has different colours and shades which vary from the context.

Basically, natural justice consists of 3 rules.

The first one is "**Hearing rule**" which states that the person or party who is affected by the decision made by the panel of expert members should be given a fair opportunity to express his point of view to defend himself.

Secondly, "**Bias rule**" generally expresses that panel of expert should be biased free while taking the decision. The decision should be given in a free and fair manner which can fulfil the rule of natural justice.

And thirdly, "**Reasoned Decision**" which states that order, decision or judgement of the court given by the Presiding authorities with a valid and reasonable ground.

Origin

The principle of natural justice is a very old concept and it originated at an early age. The people of Greek and roman were also familiar with this concept. In the days of Kautilya, arthashastra and Adam were acknowledged the concept of natural justice. According to the Bible, in the case of Eve and Adam, when they ate the fruit of knowledge, they were forbidden by the god. Before giving the

sentence, eve was given a fair chance to defend himself and the same process was followed in the case of Adam too.

Later on, the concept of natural justice was accepted by the English jurist. The word natural justice is derived from the Roman word '**jus-naturale**' and '**lex-naturale**' which planned the principles of natural justice, natural law and equity.

"Natural justice is a sense of what is wrong and what is right."

In India, this concept was introduced at an early time. In the case of **Mohinder Singh Gill vs. Chief Election Commissioner**, the court held that the concept of fairness should be in every action whether it is judicial, quasi-judicial, administrative and or quasi-administrative work.

Purpose of the principle

- To provide equal opportunity of being heard.
- Concept of Fairness.
- To fulfil the gaps and loopholes of the law.
- To protect the Fundamental Rights.
- Basic features of the Constitution.
- No miscarriage of Justice.

The principles of natural justice should be free from bias and parties should be given fair opportunity to be heard and all the reasons and decision taken by the court should be informed by the court to the respective parties.

Supreme court said that arriving at a reasonable and justifiable judgement is the purpose of judicial and administrative bodies. The main purpose of natural justice is to prevent the act of miscarriage of justice.

A committee i.e. **"Ministers Power"** gave 3 essentials procedure related to the principles of natural justice.

1. No one should be a judge in his own matter.
2. No one can be condemned unheard.
3. The party is entitled to know each and every reason and the decision taken by the authority.

When it can be claimed?

Natural justice can be claimed when acting judicially or quasi-judicial like panchayat and tribunals etc. as well. It includes the concept of fairness, basic moral principles and various different kinds of biases and why the natural justice is required and what all special cases or situation it includes where the principles of natural justice will not be applicable.

In the case of the *Province of Bombay vs. Khushaldas Advani*, it was said that natural justice will be applicable on statutory as it is a basic principle of Natural justice which leads to fairness and justice.

Effect of function

- Administrative action.
- Civil consequences.
- The doctrine of Legitimate exception.
- Fairness in action.
- Disciplinary proceeding.

In the case of *Board of high school vs. Ghanshyam*, a student was caught while cheating in the examination hall and he was debarred due to the act. Supreme Court held that student cannot file a Public Interest Litigation against the examination board.

High water mark case- Eurasian equipment and company limited vs. State of West Bengal: Under this case, all the executive engineers were blacklisted. Supreme Court held that without giving a valid and reasonable ground you cannot blacklist anyone and further he should be given a fair opportunity of being heard.

Rules of Natural Justice

- NEMO JUDEX IN CAUSA SUA
- AUDI ALTERAM PARTEM
- REASONED DECISION

Nemo Judex In Causa Sua

"No one should be a judge in his own case" because it leads to rule of biases. Bias means an act which leads to unfair activity whether in a conscious or unconscious stage in relation to the party or a particular case. Therefore, the necessity of this rule is to make the judge impartial and given judgement on the basis of evidence recorded as per the case.

Type of Bias

1. Personal Bias.
2. Pecuniary Bias.
3. Subject matter Bias.
4. Departmental Bias.
5. Policy notion Bias.
6. Bias on the account of obstinacy.

Personal bias

Personal bias arises from a relation between the party and deciding authority. Which lead the deciding authority in a doubtful situation to make an unfair activity and give judgement in favour of his person. Such equations arise due to various forms of personal and professional relations.

In order to challenge the administrative action successfully on the ground of personal bias, it is necessary to give a reasonable reason for bias.

Supreme court held that one of the members of the panel of selection committee his brother was a candidate in the competition but due to this, the whole procedure of selection cannot be quashed.

Here, to avoid the act of biases at the turn of his brother respective panel member connected with the candidate can be requested to go out from the panel of the selection committee. So, a fair and reasonable decision can be made. [*Ramanand Prasad Singh vs. UOI.*](#)

Pecuniary bias

If any of the judicial body has any kind of financial benefit, how so ever small it may be will lead to administrative authority to biases.

Subject matter bias

When directly or indirectly the deciding authority is involved in the subject matter of a particular case.

Muralidhar vs. Kadam Singh The court refused to quash the decision of Election tribunal on the ground that the chairman's wife was a member of Congress party whom the petitioner defeated.

Departmental bias

The problem or issue of departmental bias is very common in every administrative process and it is not checked effectively and on every small interval period it will lead to negative concept of fairness will get vanished in the proceeding.

Policy notion bias

Issues arising out of preconceived policy notion is a very dedicated issue. The audience sitting over there does not expect judges to sit with a blank sheet of paper and give a fair trial and decision over the matter.

Bias on the account of the obstinacy

Supreme court has discovered new criteria of biases through the unreasonable condition. This new category emerged from a case where a judge of Calcutta High Court upheld his own judgement in appeal. A direct violation of the rules of bias is done because no judge can sit in appeal against in his own case.

Audi Alteram Partem

It simply includes 3 Latin word which basically means that no person can be condemned or punished by the court without having a fair opportunity of being heard.

In many jurisdictions, a bulk of cases are left undecided without giving a fair opportunity of being heard.

The literal meaning of this rule is that both parties should be given a fair chance to present themselves with their relevant points and a fair trial should be conducted.

This is an important rule of natural justice and its pure form is not to penalize anyone without any valid and reasonable ground. Prior notice should be given to a person so he can prepare to know what all charges are framed against him. It is also known as a *rule of fair hearing*. The components of fair hearing are not fixed or rigid in nature. It varies from case to case and authority to authority.

Components

Issuance of notice– Valid and proper notice should be given to the required parties of the matter to further proceed with the procedure of fair trial method. Even if the statute does not include the provision of issue of notice then it will be given prior to making decisions. This was held in the case of *Fazalbai vs. custodian*.

In the case of *Kanda vs. Government of Malaya*, the court held that notice must directly and clearly specify on the matter of bias, facts and circumstances against which needs to be taken. It's one of the rights of the individual to defend himself so he should be familiar with the relevant matter so he may contradict the statement and safeguard himself.

The notice should be with regard to the charges framed against the accused person and proceeding to be held. He can only be punished on the charges which are mentioned in the notice, not for any other charges.

Right to present the case and evidence– After receiving the notice he must be given a reasonable time period to prepare and present his case in a real and effective manner. The refusal should not be done on the unreasonable ground or due to arbitrary.

Right to Cross Examination– Right of fair hearing includes the right to cross-examination the statement made by the parties. If tribunals denied the right to cross-examination then it will violate the principles of natural justice. And all the necessary copies of documents should be given and failure of that will also encroach the principle. The department should make available officers who are involved in the procedure of investigating and do cross-examination. Cross-

examination is defined under **Section 137 of the Indian Evidence Act, 1872** (amended).

In certain exceptional cases, the right to cross-examination can be denied or rejected. ***Hari Nath Mishra vs. Rajendra Medical College***, under this case a male student was charged off some indecent behaviour towards a female student. So, here the right to cross-examination was denied for the male student as it will lead to embracement for the female student and it will not also lead to violation of natural justice.

Sometimes it becomes very necessary to keep the identity confidential as there is a threat of life and property. And the same situation was faced in the case ***Gurubachan Singh vs. the State of Bombay***.

Let's take an illustration, In the matter where lawyer and client are involved so, nobody can force a lawyer to reveal what all information is given by the client to the lawyer in relation to the case.

In the case of ***Ludhiana food product***, the court held that If the party itself refuse to cross-examine the witness then it will not fall under miscarriage of natural justice.

Right of Legal representative– In the process of enquiry, every party has the right to have a legal representative. Each party will be presented by the legally trained person and no one can deny (***A.K.Roy***). Similarly, the department has the same right to direct its officer even though there are investigating officer in conducting an adjudicating proceeding (***Sanghi textile processor vs. Commissioner***).

Exceptions

1. During the Emergency period
2. Public interest
3. Express statutory provision
4. Nature of the case is not of a serious kind
5. If it doesn't affect the status of the individual

Applicability

1. Natural justice is applicable to some of the following points:-
2. Court- except to ex-parte
3. Tribunals
4. Authority entrusted with discretion but subject to legal limitations

Reasoned Decision

Basically, it has 3 grounds on which it relies:-

1. 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.
2. It is a satisfactory part of the party against whom the decision is made.
3. The responsibility to record reasons works as obstacles against arbitrary action by the judicial power vested in the executive authority.

Conclusion

The principles of natural justice have been adopted and followed by the judiciary to protect public rights against the arbitrary decision by the administrative authority. One can easily see that the rule of natural justice include the concept of fairness: they stay alive and support to safeguard the fair dealing.

So at all the stages of the procedure if any authority is given off the judicial function is not purely accepted but the main motive of the principal is to prevent the miscarriage of justice. It is supreme to note that any decision or order which violates the natural justice will be declared as null and void in nature, hence one must carry in mind that the principles of natural justice are essential for any administrative settlement to be held valid.

The principle of natural justice is not confined to restricted walls the applicability of the principle but depends upon the characteristics of jurisdiction, grant to the administrative authority and upon the nature of rights affected of the individual.

Introduction

"A man should keep his words. All the more so when the promise is not a bare promise but is made with the intention that the other party should act upon it"

Administrative Law is overarching in nature and it is difficult to categorize its multiple functions in watertight compartments. Consequently, multiple principles and doctrines have been formulated to ensure proper functioning of the administration.

The Doctrine of Legitimate Expectation

The doctrine of 'Legitimate Expectations' is one amongst several tools incorporated by the Court to review administrative action. This doctrine pertains to the relationship between an individual and a public authority. According to this doctrine, the public authority can be made accountable in lieu of a 'legitimate expectation'. A person may have a reasonable or legitimate expectation of being treated in a certain way by the administrative authorities owing to some consistent practice in the past or an express promise made by the concerned authority.

Origin of Doctrine of Legitimate Expectations

The doctrine is not a specific legal right engraved in a particular statute or rule book. The first time, an attempt was made to establish the principles of the doctrine were in the case of ***Council of Civil Service Unions and Others v. Minister for the Civil Service*** ([1985] AC 374), that the decision by the public authority should affect the person such that-

- His rights or obligations are altered, which are enforceable by or against him
- He is deprived of some benefit or advantage which he had been permitted by the authorizing body in the past and which he could have legitimately expected to enjoy until a valid ground for withdrawal of the same was communicated to him or he had been assured by the decision making body that such a benefit or advantage would not be withdrawn until him being given an opportunity of contending reasons as to why they were withdrawn.