

THE CONCEPT OF NATURAL JUSTICE PRINCIPLE

- *Shubhang Gomasta*

I. INTRODUCTION

The concept of natural justice comes originally from the word *jus natural* which is a roman derived word the term is not as such codified but as it is related to the common law and moral principles it is a state of law which is not derived from any of the constitution or any statute.

It is a well-defined precedence that need to be followed by all the citizens in a state the concept of natural justice can be understood as the coming a reasonable and well-structured logic decisions based on a set of rules and procedure. the end result does not matter what matter in the current situation is that a well decided and a logical decision is brought at the end.

There are basically three rules of the principle of natural justice

The first is the hearing rule. The hearing rule implies the person or a group of persons who have been affected by the decision must be provided by the opportunity unity to be able to hear him and to defend him to the best capacity

The second principle is the reasoned decision which means that the judgement or the order or the decision of the court which is given by the officer has to be valid and on reasonable ground.

The third and the last principle is the bias rule and can be understood as the concept of the bias rule which states that the panel of experts should be bias free while taking the decision. The decision of the free and fair without any personal prejudice

The birth of the principle of the natural justice

The concept can be found its root in the Greek and the roman times. In the Indian context it can be traced back as the *kautiliya* and the *arthashastra* and the *adam* had the concept of natural justice incorporated into it,

In the bible the concept of natural justice can be found in traces in what is wrong and what is right

The land mark case of the *Mohinder Singh Gill vs Chief Election Commissioner*¹ the concept of the natural justice was introduced. The court was of the view that the concept of the fairness should be reflected in every judicial quasi-judicial and quasi administrative functions

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¹ 1978 AIR 851, 1978 SCR (3) 272

Purpose of the natural justice principles

The main purpose of the principle is as follows

- (1) To protect and uphold justice at all cost
- (2) To protect the basic features enriched in the constitution
- (3) To uphold the concept of fairness
- (4) To protect the fundamental rights
- (5) To provide the equal opportunity of being heard

The basic purpose of the natural justice is to protect the features of the constitution and to protect the rights of the person to be heard and to make sure the justice is been served at the all cost

The committee on the ministers power too laid down few essential features with regard to the natural principles. These principles are as follows: (1) No one should be the judge of his own matter (2) Full information with regard to the why and on what grounds the decision has been made should be known (3) No one should be condemned unheard

The 3 Golden Rules of Natural Justice

- (1) Nemo Judex In Causa Sua
- (2) Audi Alteram Partem
- (3) Reasoned Decision

Nemo Judex In Causa Sua

The concept means that the no one should be a judge in his own case. the concept can be linked to the concept of the bias and unfair act. Therefore, this Latin term provides a judge to be completely impartial and not to be bias it also provides for the judgement to be delivered only on the basis of the evidences and the procedure as laid down in the legal framework

If one talks about the types of bias there are many bias such as personal bias, subject bias, pecuniary bias, departmental bias, policy notion bias, bias on the account of obstinacy, and subject based bias

Audi Alterum Partem

The Latin word can be understood as no person can be punished or condemned without been given the chance to be heard. not only been heard he should be given fair and free legal support to prove his innocence. the rule further says that both the parties to the case should have these

chance only if these chances can be given the judge can be sure has to the decision and justice can be served

Therefore, both the parties should be given a fair and free chance to put their arguments and a fair trial should be conducted

This is an important rule of natural justice and there should be no penalty without adequate hearing. The person should know what crime he is being tried for and adequate time should be given to him to prepare himself and present in the court. This is known as rule of fair hearing

In the case of Fazalbhai vs Custodian the issuance of notice was discussed. It was held by the court that the valid and proper notice should be given to the parties and the procedure as established by law should be held and discussed (Fair Trial Method)

Further in the case Kanda vs Government of Malaya the court came up with the notice should be clear and should mention all the points relating the facts and circumstances. It is a very basic right given to the individual to defend himself and safeguard himself

The defence and the protection should make sure that the arguments put forward are restricted only to the point made in the charges. The other person can only rely on the points and the charges made in the notice not for any other charges.

Another important factor is to provide sufficient time to prepare and present the case. The refusal if any should not be made on an arbitrary or an unreasonable manner. The right to fair hearing comprises of the right to cross examination made by the other party. No judge or jury should say no to cross examination. If done so it violates the principle of justice. For the same all information should be flown to both the sides and both the parties should know what other wants. The procedure should be followed as proved in the section 137 of the Indian Evidence Act. But in the case of Hari Nath Mishra vs Rajasthan Medical College² the exception to the rule of cross examination was brought to light. Due to privacy and to keep the identity as confidential the cross examination can be avoided. This is also accepted by the court in the case of Gurubachan Singh vs State of Bombay.³

Further in the case of Ludhiana Food Product the court held that If the party itself refuses to cross-examine the witness then it will not fall under miscarriage of natural justice.

² 1973 IR 1260, SC (1973) IILLJ 111 SC, (1973)

³ 1952 AIR 221, 1952 SCR 737

Another factor is that every person has the right to legal representative. Similarly, the department has the same right to direct its officer even though there are investigating officer in conducting an adjudicating proceeding. This was decided in the case of Sangahi Textile Processor vs Commissioner⁴

Exception to the above factors are as follows: due to public interest, due to any emergency, the nature of the case is not a serious one, there is an express statutory provision. With regard to the applicability it can be divided into the following ways.

- (1) Court- except to ex-parte
- (2) Tribunals
- (3) Authority entrusted with discretion but subject to legal limitations

II. PRINCIPLES OF NATURAL JUSTICE AND CONSTITUTION OF INDIA

If we look into the Indian Constitution, we find many instances of the concept of the natural justice principle

The article 14 of the Indian Constitution⁵: Article 14 of the Indian constitution provides for all citizens equality before law and equal protection of law. It hinders any form of discrimination and forbids both discriminatory laws and administrative action.

The article lays down the principle of all the person has to be treated in a similar way and no one should be discriminate from ne another

In *Delhi Transport Corporation v. DTC Mazdoor Union*⁶, the Apex Court held that “the Audi alteram partem rule, in essence, enforces the equality clause in Article 14 of the Constitution, is applicable not only to quasi-judicial bodies but also to an administrative order adversely affecting the party unless the rule has been excluded by the Act in question.”

The court made it expressly clear in the case of the *Maneka Gandhi vs Union of India*⁷ that the Article 14 comprises the elements of natural justice principle and is part to provide the concept of equality as assured under article 14 of the constitution.

⁴ 1993 ECR 226 AP, 1991 (55) ELT 151 AP

⁵ "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

⁶ 1991 AIR 101, 1990 SCR Supl. (1) 142

⁷ 1978 AIR 597, 1978 SCR (2) 621

The rule of Audi alteram partem was accepted by the court in the case of Cantonment Board, Dinapore vs Taramani Devi⁸ the court was of the view that the rule of the Audi alteram is a ingredient of Article 14.

Article 21 Constitution of India

The article 21 of the Indian Constitution⁹ talks about right to life and the term procedure established by law can be interrupted as the principle of natural justice.

Late Mr. Bhagawati J. stated, “the principle of reasonableness which legally as well as philosophically is an essential element of equality or non-arbitrariness pervades art 14 like a brooding omnipresence”

Therefore article 21 should be followed in a right , fair and a just manner. There should be any arbitrary action or oppressive action whatsoever.

Application of rules of natural Justice In Income-tax proceedings It is well settled that while acting in their quasi-judicial capacity the in-come tax authorities have to adhere to the principles of natural justice. In Suraj Mall Mohta and Co. v. A. V. Visvanatha Sastr¹⁰, the Supreme Court has held that the assessment proceedings before the Income-tax officer are judicial proceedings and all the incidents of such judicial proceedings have to be observed before any conclusion is arrived at. The assessee has a right to inspect the record and all relevant documents before he is called upon to lead evidence in rebuttal. This right has not been taken away by any express provision of the Income Tax Act.

In Dhakeshwari Cotton Mills Ltd.v.CIT¹¹, the Supreme Court emphasised that the principles of natural justice are applicable to the proceedings under the Income-tax Act. It observed: “It is surprising that the Tribunal took from the representative of the department statement of gross profit rates of other cotton mills without showing the statement to the assessee and without giving him an opportunity to show that statement had no relevancy whatsoever to the case of the mill in question.” In the case of Gargi Din Jwala Prasad v. CIT¹² also, the Court has held similarly. The power of revision conferred by section 25 of the Wealth Tax Act, 1962 is not administrative but quasi-judicial in nature. The expression ‘may make such inquiry and pass such order thereon’ does not confer any absolute discretion. In exercising the power the

⁸ 1974 96 ITR 97 All

⁹ “No person shall be deprived of his life or personal liberty except according to a procedure established by law.”

¹⁰ 1954] 26 ITR 1 (SC)

¹¹ [1954] 26 ITR 775 (SC)

¹² [1974] 96 ITR 97 (All.)

Commissioner must decide the issue with an unbiased mind, consider the objections of the affected party impartially and decide the dispute by following the principles of natural justice. He cannot make his judgment based on matters not disclosed to the assessee. He cannot act according to the dictates of another authority. This was so held by the Supreme Court in Sirpur Paper Mill Ltd. v. CWT¹³

III. CONCLUSION

The concept of natural justice holds at most importance and is need of the current rapid growth of admirative pressure. The courts are piled up with cases where the concept of natural justice takes a back seat. This adjustment cost the justice to many innocent parties bz of the fast and the hurry approaches to dispose the case . There is a need of the hour to make sure that the concept has to be followed. It was also seen that the various provision of the constitution covers the concept of the article 14, 21 has natural justice embodied in it

To protect the rule of law it is must that the state should discharge its functions following the principles of natural justice.

¹³ 1970] 77 ITR 6 (SC)