Volume 20, May 2022 ISSN 2581-5504

"The Role of Natural Justice"

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ABSTRACT

Judiciary is the third vital organ of Indian Government. Other two organs are Legislature and Executive. Their capacities are making of laws and execution of laws separately. It is the foundation of the government in light of the fact that at whatever point there is a debate between the Center and State, among State and the citizens and among the states, Judiciary is the solitary organ which controls the question and condemn. Judgment passed by the Judiciary is restricting on all whether it very well might be citizens or government. Judiciary is the gatekeeper of the human rights, defender of the constitution and advertiser of harmony and sincerity in India. It checks and equilibrium the administrative or executive activities of the Government.

It is hard to respond to the inquiry that whether Judges in India are liberated from political impact? As we as a whole realize that it is the sole duty of Supreme Court and high Courts in India to ensure the Fundamental Rights of Citizens in our country. Along these lines, it is normal that wide powers ought to be given to the Courts so they will keep up with concordance and achieve the target set out in the Preamble of the constitution.

In the event that the judges become incomplete or in the event that they work affected by lawmakers, the entire system will deaden.

In this research, an exertion has been made by referring to different models which shows that judiciary is assuming its part unbiasedly or with no sort of political impact. Role played by the Judiciary is exceptionally appraisable. It is moving its methodology from obsolete strategies for punishment towards creative techniques for punishment. In everywhere on the world this exertion of our Judiciary discovered acknowledgment and appreciation.

Keywords*: constitutional law, Principle of natural justice, constitution of India.*

SYNOPSIS

The aim of this project- the aim of the researcher in this project is to analyze the role of natural justice and role of judiciary in India in context to Article 14, 21 and 22 of constitution of India.

Scope of the project- the scope of project is limited to India.

Research methodology- The researcher for the completion of this project has done the doctrinal research and has referred to various journal for the same.

Volume 20, May 2022 ISSN 2581-5504

Research question- The issue here is as whether the judges are free from political impact or whether they are working under the influence of politics in context to the 99th amendment of the Indian constitution.

INTRODUCTION

The doctrine of Natural Justice is no place managed under the Constitution of India.

In any case, the words, Justice Social, Economic and political "liberty of thought, conviction, love is fuse in the Preamble of the constitution. Article 14 ensures equality under the steady gaze of law and equal protection of law to every one of the citizens of India and Article 21 ensures the right to life and liberty to every one of the people in India to protect liberty and guarantee life with dignity, which is the rudimentary provision. Article 22 guarantees the right to natural justice and provision of chance of fair hearing to the captured individual. Also, constitutional remedies are ensured under Article 32, 226, and 136 in the issue relating to the violation of any of fundamental rights just as in the instances of hardship of the principles of natural justice.

Natural Justice is a significant concept in administrative law. The principles of natural justice of fundamental rules of methodology are the preliminary premise of a decent administrative set up of any country. The concept and doctrine of Principles of Natural Justice and its application in Justice conveyance framework isn't new. It has its place since the start of justice conveyance framework. Natural justice is a statement of English common law, which includes a procedural prerequisite of decency. It is a significant concept in administrative law. In the expressions of Justice Krishna Iyer Natural justice is an unavoidable reality of secular law where an otherworldly touch breathes life into legislation, legislation and adjudication to make reasonableness an ideology of life. It has numerous shading and shades, numerous structures and shapes.[1] It is no uncertainty, a procedural necessity yet it guarantees a solid protect against any Judicial or administrative; order or action, unfavorably influencing the considerable rights of the people. Various jurists have depicted the principle in an unexpected way. Some called it as the unwritten law (jus non scriptum) or the law of reason. It has, nonetheless not been discovered to be equipped for being characterized, yet a few jurists have depicted the principle as an extraordinary acculturating principle proposed to contribute law with reasonableness to get justice and to forestall premature delivery of justice. With the entry of time, some principles have developed and solidified which are all around perceived principles of natural justice.

Natural Justice is a significant concept in administrative law. The term natural justice connotes essential principles of justice, which are made accessible to everybody defendant during preliminary. Principles of natural justice are established on reason and edified public policy. These principles are embraced to conditions of all cases. Such principles are material

[1] Lord Esher MR in Vionet VS Barrat, (1885) 55 LJQB 39.

Volume 20, May 2022 ISSN 2581-5504

to choices of every legislative office, councils and decisions of all courts. In the present world the significance of principle of natural justice has been acquiring its strength and it is presently the embodiment of any legal framework. Natural justice rules are not codified laws. It's anything but conceivable to characterize absolutely and deductively the articulation 'natural justice'. They are essentially common – sense justice which are inherent the soul of individual. They are in light of natural beliefs and qualities which are all inclusive in nature. ' Natural justice' and 'legal justice' are substances of 'justices' which should be gotten by both, and at whatever point legal justice neglects to accomplish this reason, natural justice must be brought in guide of legal justice. Rules of natural justice have created with the development of human progress. It's anything but the creation of Constitution or humankind. It started alongside mankind's set of experiences. To ensure himself against the overabundance of coordinated force, man has consistently spoke to somebody which is not been made by him and such somebody must be God and His laws, Divine law or Natural law, to which all worldly laws should and actions should adjust. It is of 'higher law of nature' or 'natural law' which suggests decency, sensibility, equity and fairness.

The main principle is that 'No man will be a judge in his own motivation' for example to say, the deciding authority should be unprejudiced and without bias. It Implies that no man can go about as a judge for a reason where act naturally has some Interest, might be pecuniary or something else. Pecuniary interest manages the cost of the strongest proof against impartiality. The accentuation is on the objectivity in dealing with and deciding a matter. Justice Gajendragadkar, as then, at that point he was, observed in a case revealed in M/s Builders Supply Corporation v. The Union of India and others[2], "clearly pecuniary interest, howsoever little it could be, in a topic of the proceedings, would completely disqualify a member from going about as a judge". Ruler Hardwick observed in one of the cases, "In a question of so delicate a nature, even the presence of evil is to be stayed away from." Yet it has been set down as principle of law that pecuniary interest would disqualify a Judge to choose the matter despite the fact that it's anything but demonstrated that the decision was in any way influenced. This is consequently a question of faith, which a common man should have, in the deciding authority.

The principle is appropriate in such cases additionally where the deciding authority has a few personal interest in the matter other than pecuniary Interest. This might be looking like a few personal relationships with one of the parties or hostility against any of them. In one of the cases orders of punishment was held to be vitiated, as the officer who was in the situation of a complainant/accuser/witness, couldn't go about as an enquiry officer or punishing authority. There might be a possibility, consciously or unconsciously to maintain as Enquiry Officer what he claims against the delinquent officer. (Territory of U.P. v. Mohammad Nooh)[3]

[2] M/s Builders Supply Corporation v. The Union of India and others AIR 1965 SC 1061,
[3] (Territory of U.P. v. Mohammad Nooh), AIR 1958 SC 86

Volume 20, May 2022 ISSN 2581-5504

In one of the selections, which was held for the post of Chief Conservator of Forest, one of the members of the Board was himself a contender for the post. The entire cycle of selection was held to be vitiated as the member would be a judge in his own cause. (Mysore) V.N. Nadgir v. Association of India.)[4]

For another situation revealed in Manak Lal v. Prem Chand,[5] where a committee was comprised to enquire into the grumbling made against an Advocate, the Chairman of the Committee was one who had once showed up before as counsel for the complainant. Constitution of such a committee was held to be terrible and it was noticed, "in such cases the test isn't whether truth be told the bias has influenced the Judgment; the test consistently is and should be whether a prosecutor could sensibly capture that a bias credited to a member of the Tribunal may have worked against him in an official choice of the Tribunal." However, such objections about the constitution of committees or Tribunals comprising of members having bias ought to be accepted at the most punctual open door before beginning of the proceedings in any case, ordinarily, It would be considered as waiver to that complaint.

In the Constitution of India, no place the expression Natural Justice is utilized. Notwithstanding, golden string of natural justice sagaciously went through the collection of Indian constitution. Preamble of the constitution includes the words, 'Justice Social, Economic and political' liberty of thought, belief, worship... What's more, equality of status and of chance, which not just guarantees fairness in social and economic exercises of the people yet additionally goes about as shield to individual’s liberty against the arbitrary activity which is the base for principles of Natural Justice.

Aside from preamble Article14 guarantees equality under the steady gaze of law and equal protection of law to the resident of India. Article 14 which strike at the root of arbitrariness and Article 21 guarantees right to life and liberty which is the fundamental provision to protect liberty and guarantee life with dignity. Article 22 guarantees natural justice and provision of fair hearing to the captured individual. Directive principles of state Policy specially Article39-A deals with social, economic, and politically backward sections of people and to accomplish this object for example this part guarantee free legal aid to impoverished or disabled people, and Article 311 of the constitution guarantees constitutional protection to civil servants. Moreover Article 32, 226, and 136 gives constitutional remedies in cases violation of any of the fundamental rights including principles of natural justice. With this short acquaintance creator attempts with analyze a portion of the significant provision containing a few elements of Principle of Natural Justice.

HISTORICAL DEVELOPMENT

The idea of Principle of natural justice is not another idea. Natural justice has an impressive history which has been perceived from the earliest times. The Greeks had acknowledged the

[4] (Mysore) V.N. Nadgir v. Association of India.)1970 SLR 134
[5] Manak Lal v. Prem Chand AIR 1957 SC 425

Volume 20, May 2022 ISSN 2581-5504

principle that 'no man should be denounced unheard'. It was first applied in 'Nursery of Eden' where opportunity to be heard was given to Adam and afterward giving him punishment. Some of the evidences of natural justice is also found in Roman law. Principle of natural justice has also been found in the Kautilya's Arthsastra, Manusmriti and unique text. Aristotle, before the era of Christ, spoke of such principles calling it as universal law. Justinian in the fifth and sixth Centuries A.D. called it "'juranaturalia" for example natural law.

In India the principle is predominant from the old times. We discover it Invoked in Kautllya's, Arthashastra. In this unique circumstance, para 43 of the judgment of the Hon'ble Supreme Court In the case of Mohinder Singh Gill v. Boss Election Commissioner[6], might be usefully quoted:

"Undoubtedly, natural justice is an unavoidable aspect of secular law where an otherworldly touch charges legislation, organization and adjudication, to make reasonableness a belief of life. It has numerous tones and shades, numerous structures and shapes and, save where valid law rejects, it applies at the point when individuals are influenced by acts of authority. It is the bone of solid government, perceived from most punctual occasions and not a spiritualist confirmation of judge-made law. Undoubtedly from the legendary long stretches 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 but to demonstrate that the roots of natural justice and its foliage are honorable and not modern. Today its application should be supported by current legislation, case law or other Extant principle, not the ancient harmonies of legend and history. Our jurisprudence has endorsed its pervasiveness even like the Anglo-American framework."

ROLE OF JUDICIARY

The Indian Constitution protects the citizens from any halfway judgment. That is the reason supreme power is given to the Judiciary to settle on choices dependent on the rule of law. The courts in India nor will be nor constrained by the government and they don't address any political authority.[7]

A. **Separation of power-** This independence of Judiciary calls for 'Separation of Power'. This fundamentally implies that both the lawmaking body and executive are not permitted to meddle in the working of the Judiciary. Along these lines, to effectively execute their free authority, the judges of both the Supreme Court and the High Courts should be delegated with no impact on impedance from different parts of the government or from private or partisan interests.

[6] Mohinder Singh Gill v. Boss Election Commissioner AIR 1978 SC 851
[7] https://www.toppr.com , visited on 21st May 2019.

B. **Structure of courts**- The Judiciary is one of the three lynchpins of a democracy, the other two being the legislature and the executive.[8] Every one of the three work in the show to guarantee that the democratic system works productively. Be that as it may, the executive and the legislature need minds their power. Judiciary has numerous significant roles to satisfy which incorporates:

(i) To go about as guardian and mediator of the constitution.

(ii) To protect fundamental and different rights of the citizens of India

To satisfy the duty forced on the shoulders of judiciary, the judicial system is partitioned into three degrees of Courts in India.[9]

- District Court: It is the most reduced court arranged in each district of each State. This is the place where most citizens go to for any debate in their city or religion.
- High Court: Each state has its own High Court, which is unquestionably the highest judicial authority of the state. Any individual oppressed by the request for the District Court can appeal to the high Court for its complaints.
- Supreme Court: This is the Apex Court in a country. Any remaining Courts including High Courts and the District Courts are subordinate to it. The decisions made by the Supreme Court remains over any remaining subordinate courts. Decision passed by the Supreme Court is conclusive and restricting on the parties.

C. **Dispute resolution**- The courts additionally reserve the privilege to punish people for the crimes they perpetrate. Pretty much every social circumstance which needs a rule is overseen by the Judiciary. Along these lines, at whatever point there is a dispute, the courts mediate in giving arrangements. Regardless of whether that dispute might be between citizens, citizens and government or between two governments or even the central and state government, the State is liable for dispute resolution.

D. **Judicial review-** The judiciary has the last hang on the Constitution of India. All things considered, if there is any violation of the fundamentals of the Constitution, the court can considerably over compose laws passed by the Parliament. This cycle is called Judicial Review.[10]

E. **Enforcing fundamental rights**- Practically all crucial rights of Indian Citizens are characterized in our Constitution. On the off chance that, any citizens feel that any of such rights are violated, they can move toward their local High Courts or the Supreme Court under Articles 226 or 32 of the Constitution.

JUDICIARY UNDER INDIAN CONSTITUTION

Judiciary under Indian Constitution plays a star vital job. Its achievement has been significant in all areas of the nation's life. As it is one of the powerful establishments of the world, it chooses cases contacting all facts of human life and relationship. It is the guardian of the

[8] https://www.indiacelebrating.com , visited on 21st May 2019.
[9] *Supra* Note 2.
[10] Ibid.

Volume 20, May 2022 ISSN 2581-5504

human rights, protector of the constitution and promoter of the peace, cordiality and balance between various organs of the government. The Constitution of India which was drafted by the Constituent Assembly and which came into power on 26th January 1950 contains number of provisions that deal with structure, functions and power of the judiciary. It presented a brought together system in all the States and Union Territories. It's anything but a three-tier judicial system viz. the Supreme Court, the High Courts in each state and Union Territories.

The level of intercession of judiciary may rely upon the legal system continued in Different countries of the world. For example, in Britain, as there is no written Constitution, the Judiciary may practice just restricted powers of judicial review Vis-a Vis the delegated legislation and ministerial action of the government. In this way, the law of the judiciary in Britain is of law application and law interpretation.

In USA, the judiciary is considered as the supreme body over the legislature and executive. The Constitution of USA enables the judiciary to check the other two organs on the off chance that they enjoy any overabundance.[11]

In any case, in India, the judiciary has come to practice vast powers of Judicial Review in regard of the legislative and executive functions of the State and of the judicial actions of the Judiciary. The Supreme Court and High Court in India not just act as the arbiters to decide or resolve the questions that may arise between the Center and State yet it also ensures and implement the fundamental rights of the residents against arbitrary action of the States. They also decipher the laws made by the legislature. The decision of the Supreme Court is final if by any act of the legislature or Executive, any Fundamental rights or human rights are abridging.

Exceptionally one of a kind features of the Indian Apex Judiciary is that it has the power to decide the validity of constitutional amendments which perhaps is seen no place under any other constitution, regardless of whether codified or un codified.

In nutshell, the judiciary by and large performs one or a significant number of the accompanying functions in constitutional democracies: -

1. Interpreting the constitution with due distinction to the wishes of the framers of the constitution
2. Upholding the federal principle of keeping up with the harmony between the different organs of the public authority or among center and the states.
3. Guarding and protecting the fundamental rights of the citizens.
4. Applying and interpreting the laws made by the legislature.
5. To check and equilibrium the legislative or executive actions of the public authority.

[11] Omdutt, *Role of Judiciary in Democratic System of India (Judicial Activism under the Supreme Court of India):* Golden Research Thoughts, September; 2012, Vol.2, Issue 3.

Volume 20, May 2022 ISSN 2581-5504

6. Under Article 32 and 226 the Supreme Court and the High Court individually has the power to issue writs or orders for accomplishing the destinations of those articles.
7. Through Public Interest Litigations, Judiciary has the power to get some information about the execution of the schemes run by the public authority. For instance, in Direction in Common Cause v. Association of India,[12] the Apex Court set down directions for how blood ought to be gathered, put away and given for bonding and how blood bonding could be made liberated from risks.

Again in M.C. Mehta v. Association of India[13] , the Supreme Court issued directions to the public authority to scatter information about environment through slides in cinemas, theaters or exceptional exercises in schools or universities.

In a mainstream case[14] the Apex Court set down directions regarding how offspring of prostitutes ought to be educated.

Likewise, directions in the Azad Rickshaw Puller's Case[15] were issued by the Supreme Court to the Punjab National Bank to propel advances to the cart pullers and contain an entire plan for the reimbursement to such credits.

In any case, Chief Justice J.S. Verma in Vishakha and Others v. Territory of Rajasthan [16] said, "The essential duty regarding guaranteeing the safety and the respect of the citizens through reasonable legislations and the making of a component for its implementation is of the legislature and the executive. When, nonetheless examples of violation of fundamental rights of citizens occurred then a few rules ought to be set down for the protection of this right to fill the legislative vacuum."

PRINCIPLE OF NATURAL JUSTICE

The principles of natural justice are those rules which have been set somewhere around the courts as being minimum protection of the rights of the person against the arbitrary procedure that might be embraced by a judicial, qausi-judicial and administrative authority while making a request influencing those rights.

Straight to the point Committee or the committee on Minister's Power has set out the accompanying norms of natural justice:

1. No man should be censured unheard,
2. No man shall be judge in his own cause,
3. A party is qualified for now the reasons for the decision,

[12] Direction in Common Cause v. Association of India *1996) 1 SCC 753 (Blood Bank Case)*
[13] M.C. Mehta v. Association of India AIR 1992 SC 382: (1992) 1 SCC 358
[14] Gaurav Jain v. Union of India, AIR 1990 SC 292
[15] Azad Rickshaw Puller's Case AIR 1981 SC 14.
[16] Vishakha and Others v. Territory of Rajasthan AIR 1997 SC pp 3012-13

Volume 20, May 2022 ISSN 2581-5504

4. Making available a duplicate of statutory report.

In any case the traditional English law recognizes two principles of natural justice

(A) NEMO JUDEX IN CAUSA SUA (Rule Against Bias) - The strict importance of the Latin saying 'NEMO JUDEX IN CAUSA SUA is that 'No man will be a judge in his own motivation' for example to say, the concluding authority should be unbiased and without bias. It suggests that no man can go about as a judge for a reason in which he has a few Interest, might be pecuniary or something else. Bias means an operative prejudice, regardless of whether cognisant or oblivious, according to a gathering or issue. Such operative prejudice might be the after effect of a preconceived assessment or a predisposition or a predetermination to choose a case in a specific manner to such an extent that it doesn't leave the brain open. Pecuniary interest manages the cost of the strongest confirmation against fairness. The accentuation is on the objectivity in managing with and choosing a matter. Equity Gajendragadkar, has seen on account of M/S Builders Supply Corporation v. The Union of India and others[17], "clearly pecuniary interest, howsoever little it could be, In a topic of the proceedings, would entirely preclude a part from going about as a judge".

On account of A.K.Kraipak V. Association of India[18] a precautionary measure was taken by an individual from the choice Board to pull out himself from the choice proceedings at the time his name was thought of. This safeguard taken couldn't fix the deformity of being a judge in his own motivation since he had taken an interest m the thoughts when the names of his adversary up-and-comers were being considered for choice on merit. The position, be that as it may, might be distinctive when just authority limit is engaged with taking a choice in any matter as recognized from having an individual Interest. There are sure resolutions which give that named officers may resolve the contention, assuming any, emerging between the association and different people, e.g., in the issue identifying with nationalization of courses, Government officers or authorities were vested with the ability to discard the protests. In such matters as above, it has been held by the Hon'ble Supreme Court that proceeding won't vitiate as It was uniquely in official limit that the officer was Involved and It would not be right to say that he was a judge in his own motivation being an officer of the Government. It is a sort of statutory duty which is performed by a public officer, except if obviously bias is demonstrated regardless.

For another situation, Manak Lal v. Prem Chand[19] where a committee was established to enquire into the complaint made against an Advocate, the Chairman of the Committee was one who had once appeared before as direction for the complainant. Constitution of such a committee was held to be awful and it was noticed, "in such cases the test isn't whether truth be told the inclination has influenced the Judgment; the test consistently is and should be whether a defendant could sensibly secure that an inclination ascribed to an individual from

[17]M/S Builders Supply Corporation v. The Union of India and others AIR 1965 SC 1061
[18] A.K.Kraipak V. Association of India AIR 1970 SC 150,
[19] Manak Lal v. Prem Chand AIR 1957 SC 425

the Tribunal may have worked against him in the last choice of the Tribunal." However, such protests about the constitution of committees or Tribunals comprising of individuals having inclination ought to be pursued at the soonest open door before beginning of the procedures in any case, ordinarily, It would be considered as waiver to that complaint. Ruler Denning saw in, Metropolitan Properties Ltd. v. Lunnon[20],"The reason is adequately plain. Justice should be established in certainty and certainty is obliterated at the point when right leaning individuals disappear thinking, the Judge was biased". In any case, we discover allegation given that the doubt ought to be that of sensible individuals and should not be that of impulsive and preposterous individual. The guideline is of extraordinary Importance. It guarantees hearing or then again thought of a matter by unbiased and impartial position.

TYPES OF BIAS

1. Pecuniary Bias

Judicial methodology is consistent and definitive on the point that any financial interest, howsoever little it could be, would vitiate administrative action. The preclusion won't be kept away from by non-support of the biased member in the proceedings on the off chance that he was available at the point when the decision was reached.

In the period of free market economy where investment in shares is exceptionally normal there is a lot of possibility of the bias of this kind. Nonetheless considered assessment is that it would serve no public interest if the choosing official salvages himself where he has no considerable pecuniary interest.

2. Subject Matter Bias

Those cases fall inside this category where the concluding official is straightforwardly, in any case, included in the topic of the case. Here again the simple contribution would not vitiate the administrative action except if there is a genuine likelihood of bias.

In R. Versus Arrangement Justices, Ex p. Curling[21] , the magistrate was not pronounced to attempt an instance of cruelty to an animal on the ground that he was a member of the royal society for the prevention of Cruelty to animals, as this didn't demonstrate a genuine likelihood of bias.

3. Departmental Bias Or Institutional bias

The issue of departmental bias is something which is inborn in the administrative measure, and if not adequately checked it might nullify the actual idea of fairness in administrative proceeding. The issue of departmental bias additionally emerges in an alternate setting at the point when the functions of a judge and prosecutor are joined in a similar division. It's

[20] Metropolitan Properties Ltd. v. Lunnon (1969) 1 OB 577
[21] R. Versus Arrangement Justices (1881) 45 LT 439 (DC)

Volume 20, May 2022 ISSN 2581-5504

anything but remarkable to track down that a similar division which start a matter likewise chooses it, in this manner on occasion departmental fraternity and loyalty militates against the idea of fair hearing.

4. Policy Notion Bias

Bias emerging out of preconceived policy ideas is a fragile problem of administrative law. On one hand, no judge as a human being is relied upon to sit as a sweeping piece of paper and on the floor, preconceived policy ideas may vitiate a fair preliminary.

An exemplary case carrying this problem to the bleeding edge is Franklin V. Minister of Town and country planning[22] otherwise called Stevenage case. In this case the appealing party tested the Stevenage New Town Designation Order Act, 1946. On the ground that no fair hearing was given on the grounds that the Minister had engaged bias in his assurance which was obvious from his discourse at Stevenage when he said "I need to complete a trying exercise around planning and it will be finished. However, the court didn't acknowledge the demand on the technical ground that the minister in affirming the report was not playing out any quasi-judicial capacity, however the problem actually stays that the bias emerging from solid policy feelings may work as a more genuine danger to fair activity than some other single factor.

5. Preconceived Notion Bias

This kind of bias is otherwise called unconscious bias. All individual exercising adjudicatory powers are humans with human prejudices, regardless of certain persons are a larger number of humans than others. The problem of bias emerging from preconceived ideas may must be discarded as an intrinsic limitation of the administrative interaction. It is pointless to blame a public officer for bias simply on the grounds that he is inclined for some policy in the public interest.

6. Bias on Account of Obstinacy

The supreme court has discovered another category of bias emerging from altogether unreasonable obstinacy. It in a real sense implies unreasonable and resolute diligence, and the concluding official would not take "no" for an answer. This new sort of bias was discovered in a situation where a judge of the Calcutta High court upheld his own judgment while sitting in appeal against his own judgment.

CONSTITUTIONAL PROVISION RELATING TO NATURAL JUSTICE

ARTICLE 14 OF CONSTITUTION OF INDIA: Article 14 guarantees all citizens equality under the steady gaze of law and equal protection of law. It ruins any form of discrimination

[22] Franklin V. Minister of Town and country planning 1948 AC 87

Volume 20, May 2022 ISSN 2581-5504

and disallows both unfair laws and administrative action. Article 14 of Constitution of India, builds up to be safeguard against any arbitrary or prejudicial State action. The circle of equality as encapsulated in Article 14 has been extending as a result of the judicial choices. This Article set out a general preposition that all persons in comparative condition will be treated along these lines both in privileges and liabilities forced.

Article 14 shows through after propositions:

(I) A law giving freehand and unhindered power on an authority is repulsive for being arbitrary and discriminatory.
(ii) Article 14 illegals bias in the distinct exercise of any optional power.
(iii) Article 14, smacks at arbitrariness in administrative action and guaranteed fairness and equality of treatment.

ARTICLE 21 OF CONSTITUTION OF INDIA- The main expression under this Article is „procedure set up by law‟ the issue emerges whether the previously mentioned expression can be perused as principles of natural justice. For which, the Supreme Court of India in majority decided that the word „law‟ under Article 21 couldn't be perused as rules of natural justice. Since, the rules of natural justice are dubious and loose and hence the Constitution couldn't be perused as setting out an undefined norm.

Late Mr. Bhagawati J. stated, "the principle of reasonableness which legally too as thoughtfully is an essential element of equality or non-arbitrariness invades article 14 like an agonizing ubiquity". In this way, the procedure laid in Article 21 "should be right, just also, fair" and will not be arbitrary, oppressive, else, it would be no procedure at all and the requirements under Article 21 would not be satisfied.

The Supreme Court has moved forward in working on the administration of criminal justice by recommending that free legal support to poor prisoners by the State going through imprisonment. At the point when an accused is condemned to imprisonment by a Court and if the Accused is qualified for appeal against the order/judgment/decree, the Accused has the privilege to claim legal aid and in the event that he is unable to meet the expense, the State will make all such arrangements to provide legal aid.

"Presently, a procedure which doesn't make available legal service to an accused individual who is too poor to even think about managing the cost of a lawyer and who would, accordingly, need to go through the preliminary without legal help, can't in any way, shape or form be regarded as „reasonable, fair and just". In India free-legal aid to distinctively capable persons are viewed as critical element of Natural Justice.

ARTICLE 22 CONSTITUTION OF INDIA:

This Article gives protection to arrested individual from arrest and detainment in certain cases which inside its circle contains fundamental element of natural justice,

Volume 20, May 2022 ISSN 2581-5504

Article 22 (1) and (2) allows the accompanying fundamental rights upon an arrested individual:

i) Right to be informed, momentarily the grounds for arrest.
ii) Right to consult and be defended by a legal practitioner of his choice.
iii) Right to be produced before the nearest magistrate inside 24 hours from arrest barring of travel from the spot of arrest to the Court of Magistrate.
iv) Right not to be kept in custody without the authority of the Magistrate past the time of 24 hours from arrest.

RIGHT TO BE INFORMED OF THE GROUNDS OF ARREST:

The essential object of this provision is that the arrested individual will be communicated the ground for arrest. Since, on the knowledge of the grounds of arrest, the arrested individual will make arrangements for vital legal remedies and will likewise make an application under the steady gaze of an appropriate court with Application for bail or likewise utilize the remedy of approaching the High Court with a Writ of Habeas Corpus. The Apex Court observed that Article 22 (1) of the Constitution of India represents a standard which has consistently viewed as vital and fundamental for protection of personal liberty in all legal systems where the Rule of Law prevails. Any such communicated grounds made to the arrested individual will be exact, characterized, clear and unambiguous, regardless if the grounds are not entirely revealed to accused than it will add up to forswearing of „fair hearing" and at last will result into violation of Natural Justice. In re, Madhu Limaye the realities being; Madhu Limaye, Member of the Lok Sabha alongside a few different people were arrested. Madhu Limaye, one of the arrested people tended to a petition as a letter to the Apex Court by conjuring Article 32 of the Constitution and accordingly bringing up that he alongside a few other individuals had been arrested however no ground for such an arrest was communicated.

The High Court observed that Article 22 (1) epitomizes a standard which has consistently been respected as vital and fundamental for defending personal liberty in all legal systems where the Rule of Law prevails. In Joginder Kumar V. Province of U.P. The Supreme Court observed that no arrest can be made in light of the fact that it is lawful for the Police officer to do as such. The presence of the ability to arrest is a certain something. Arrest and detainment in lock-up of an individual can cause inestimable mischief to the standing and self-esteem of an individual. No arrest ought to be made by Police Officer without sensible fulfillment after some examination regarding the validity also, bona fides of a complaint and a sensible belief both regarding the individual's complicity and all things being equal concerning the need to impact arrest. On the off chance that an Accused is condemned to imprisonment, it is almost unfit to exercise the constitutional or statutory right of appeal of the Accused, comprehensive of extraordinary leave to appeal for need of legal help. The court may judge the circumstance and consider from all angles whether it is vital for the ends of justice to make accessible legal

help in the specific case. This is the present position relating to legal representation to the arrested individual under Article 22(1).

ARTICLE 32, 226 AND 227:

Article 32 and 226 of the constitution provides for remedies for violation of fundamental Rights and just as other statutory rights, Under Article 32 and Article 226 the remedies can be practiced by looking for orders for issuance proper Writ, Directions and Orders. In U.P. Warehousing Corporation V. Vinay Narayan Vajpayee, the Court held that Writ of certiorari or prohibition generally goes to a body which will undoubtedly act fairly or as indicated by natural justice and it neglects to do as such. In a similar way where the decision is influenced by bias, personal, or pecuniary, or subject matter as the case might be considered as violation of principle of natural justice. In such conditions additionally writ of certiorari and prohibition can be issued both Under Art 32 and 226. In Gullapalli Nageshwar Rao V. APSRTC the SC suppressed the decision of the AP Govt., nationalizing Road transport on the ground that the Secretary of the Transport Department who was given a hearing was keen on the subject matter. Any order made in violation of principles of natural justice is void ab-initio and is liable to be invalidated and dropped. The Supreme Court in Nawabkhan Abbaskhan V. State of Gujarat held that an order which encroaches a fundamental freedom passed in violation of the Audi alteram partem rule is a nullity. At the point when an equipped court holds such official act or order invalid or saves it, it works from nativity for example the decried act of the lower courts or tribunals or on the other hand order was rarely legitimate. Aside from Article 32 and 226, it is Article 227 which can be utilized by High Court as another exceptional weapon to forestall violation principles of natural justice in any lower court.

(B) AUDI ALTERAM PARTEM (Rule of fair hearing)

The following principle is Audi alteram partem, for example no man ought to be censured unheard or that both the sides should be heard prior to passing any order. A man can't bring about the deficiency of property or liberty for an offense by a judicial proceeding until he has a reasonable opportunity of Noting the case against him. In numerous statutes, provisions are made guaranteeing that a notice is given to a person against whom an order is probably going to be passed before a decision Is made, yet, there might be examples where however an authority Is vested with the powers to pass such orders which influence the liberty or property of an individual yet the rule may not contain a provision for prior hearing. Yet, what is imperative to be noted is that the applicability of principles of natural justice isn't subject to any statutory provision. The principle has to be obligatorily applied regardless of the reality with respect to whether there is any such statutory provision or not. De Smith, in his Judicial Review of Administrative Action (1980), at page 161, observed, "Where a resolution approves obstruction with properties or different rights and is quiet on the subject of hearing, the courts would apply rule of universal application and established on plainest principles of natural justice." Wade in Administrative Law (1977) at page 395 says that principles of

natural justice work as suggested compulsory necessities, non-recognition of which refutes the activity of power. On account of, Cooper v. Sandworth Board of Works[23], it was observed, "...Although there is no certain word in the resolution requiring that the gathering will be heard, yet justice of common law would supply the oversight of Legislature."

In A.K. Kraipak's case, the Hon'ble Supreme Court observed that the rules of natural justice work just in areas not covered by any law validly made. These principles hence supplement the law of the land. On account of Smt. Maneka Gandhi v. Association of India and another[24], it has been observed that even where there is no particular provision for showing cause, yet in a proposed action which influences the rights of an individual it is the duty of the authority to give sensible opportunity to be heard. This duty is supposed to be inferred naturally of capacity to be performed by the authority having power to make a corrective or harming move.

There are two main element of this principle-

1. Notice
2. Hearing

NOTICE

The term notice started from the latin word notitia which means being known. In its famous sense it is equivalent to information, intelligence or knowledge. In legal sense, it accepts knowledge of conditions that should incite doubt or conviction, just as direct information of that fact.

For the most part a notice contains the accompanying facts:

1. Time, place and nature of hearing.
2. Legal authority under which a hearing is to be held.
3. Statement of specific charges which the person needs to meet.

HEARING

It is the fundamental requirement of the principle of natural justice that the opportunity of being heard should be given. Right to hearing gives an individual to present his case before the court and set forward evidences on the side of his case.. It additionally incorporates the right of representation and simultaneously to defend his side. The application of the principles of natural justice shifts from one case to another contingent on the factual part of the matter. For model, in the matters identifying with significant punishment, the requirement is exacting and full-fledged opportunity is conceived under the statutory rules before an individual is excused removed or reduced in position, however where it identifies with just

[23] Cooper v. Sandworth Board of Works (1863) 14 GB (NS) 4 180
[24] Smt. Maneka Gandhi v. Association of India and another AIR 1978 SC 597

minor punishment, a simple clarification presented by the delinquent official concerned meets the requirement of principles of natural justice. In certain matters oral hearing might be essential yet in others, It may not be vital, as we track down that in one of the case, Union of India v. J.P.Mittar[25], a matter identifying with adjustment of date of birth, it was not viewed as important to give individual hearing; a simple representation was held to be adequate to adjust to the application of principles of natural justice. In Srikrishna v. Province of M.P[26], It has been seen that the principles of natural justice are flexible and the test is that the arbitrating authority should be impartial and fair hearing should be given to the individual concerned.

DOCTRINE OF POST DECISIONAL HEARING

Post decisional hearing is a hearing which takes after a provisional decision is reached. Post decisional hearing happens where it may not be feasible to hold pre decisional hearing.

Post Decision Hearing has been created to maintain a harmony between administrative efficiency and fairness to people[27] . In Post Decisional Hearing, an individual is offered a chance to be heard after a provisional decision has been taken by the authorities. In specific situations, it's anything but feasible for the authorities to have an ordinary predecisional hearing and decisions are being taken on first instance prior to providing the individual to present his views, than it would be consider reasonable if the authorities give the Post Decision Hearing too, asset will be in consistence with the Principle of Natural Justice. In Post Decision Hearing, the unmistakable point is that authorities should take just a provisional decision and not a ultimate choice without hearing the party concerned[28] . The essential objective is that when an official conclusion is taken than it gets hard for the authorities to invert it and the motivation behind providing a fair hearing gets defeated,therefore, for a blamed it ends up being a less viable than pre decision hearing. The comparable suggestion was reiterated by the Apex Court. With the presentation of this idea, the possibility of Principle of Natural Justice has extended. The Supreme Court has been insistent and prefers for Pre Decision Hearing rather Post Decision Hearing which should be done uniquely in outrageous and unavoidable cases. It reinforces the idea of Audi Alteram Partem by providing Right to Heard at a later stage. The Supreme Court has various views on Post Decision Hearing, on whether providing opportunity to be heard at a later stage sub serves the Principle of Natural Justice or not, or can post decision hearing be an outright [29]substitute for pre decision hearing. The idea of post-decisional hearing, however jurisprudentially earth shattering, has been fairly habitually talked about; to such an extent that there just a modest bunch of cases which can be referred to examine the idea and its jurisprudence top to bottom and detail. An investigation of the equivalent is as per the following with the assistance of case laws.

[25] Union of India v. J.P.Mittar AIR 1971 SC 1093,
[26] Srikrishna v. Province of M.P AIR 1977 SC 1691
[27] I.P. Massey, Administrative Law, (6th edition 2005).
[28] M P Jain & S C Jain, Principles of Administrative Law (5th edition, 2007).

Volume 20, May 2022 ISSN 2581-5504

Mankea Gandhi vs. Union of India[30]- This case is a landmark judgment on this point and was instrumental in introducing the concept of Hearing in Indian Legal Jurisprudence. The petitioner was given with a notice by the Regional Passport Office, Delhi to present the passport inside seven days of her receiving the notice. The choice was made by the Government of India under Section 10(3)(c) of Passport Act,1967 on the ground of Public Interest. The petitioner promptly requested that the Passport Office outfit the grounds on which her passport is seized upon as given under Section 10(5), the Government would not give the equivalent expressing in the interest of the general public, they won't give the motivations to this order. The petitioner recorded a writ request testing the order passed by the Government.

The contention introduced by the Attorney General with respect to the immaterialness of Audi alteram partem was dismissed by the Court. The court expressed that is essential for the authorities to agree by the principle of Natural Justice and an opportunity to be heard should be given to the petitioner prior to passing any last order. Court held that procedure set up by section 10(3)(c) of Passport Act, 1967 is in similarity with the prerequisite of Article 21. The Act gives the ground on which the passport could be appropriated and this procedure was completely perceived by the Court. At last the court didn't pass any order as confirmation was given by the Attorney General to furnish the petitioner with the opportunity to introduce her perspectives inside about fourteen days (Post Decisional Hearing) and preceding the taking of ultimate choice authorities will consider the perspectives given by the petitioner. Subsequently first time in Indian Legal Jurisprudence the concept to Audi Alteram Partem was developed.

Swadeshi Cotton Mills vs. Union Of India[31]- In 1978, Swadeshi Cotton Mills was taken over by the Government through the Industries(Development and Regulation) Act, 1951 on the ground that the production of articles will be radically decreased and prompt action is needed to ensure it. The administration was given over to National Textile Corporation Limited for a term of five years. The demonstration gives the Centre Government the ability to give orders with respect to any open restricted industry which isn't had the option to function appropriately. The company chose to file a writ petition in Delhi High Court against the Government's structure. The High Court upheld the request of government. The appellant than filed a revision petition under the watchful eye of Supreme Court. The court turned around the choice of High Court and held that Section 18AA doesn't prohibit the standard of Audi alteram partem at pre decisional stage The court perceived the principle of Post Decisional Hearing and held that in specific situations it's anything but conceivable to give earlier notice or opportunity to be heard, in such conditions the specialists may take the essential choices however it should be trailed by a full remedial hearing. As to judicial audit of the request Apex Court contrasted from the respondent and expressed that taking quick action is the question of fact and hence court can meddle if the administration isn't sensible in

[30] Mankea Gandhi vs. Union of India 1978 SCR (2) 621.
[31] Swadeshi Cotton Mills vs. Union Of India 1981 SCR

Volume 20, May 2022 ISSN 2581-5504

its methodology as they structure their opinion by gathering evidences. Post decisional hearing doesn't avoid the standard of pre decisional hearing except if explicitly prescribed by the demonstration. Furthermore, for this situation the Government has violated the Principle of Natural Justice by not giving an opportunity to be heard.

EXCEPTION TO THE RULE AGAINST BIAS

Doctrine of Necessity

The doctrine of need is an exception to 'Bias'. The law allows certain action items as an issue of need which it would somehow or another not face on the standard of judicial propriety. The doctrine of need makes it basic for the authority to choose also, considerations of judicial propriety should yield. It very well may be conjured in cases of bias where There is no authority to choose the issue. In the event that the doctrine of need isn't allowed full play in certain unavoidable situations, it would obstruct the course of equity itself and the defaulting gathering would profit with it. In the event that the decision is between either to allow a biased individual to act or to smother the activity through and through, the decision should fall for the previous as it is the best way to advance dynamic. Where bias is obvious yet a similar individual who is prone to be biased needs to choose, as a result of the statutory requirements or the selectiveness of an able authority to choose, the Courts allow such individual to choose. In Ashok Kumar Yadav versus Haryana[32], the Court held that a member of the Public Service Commission could not totally disassociate himself from the cycle of selection in light of the fact that a couple of candidates were identified with him. He ought to disassociate himself with the selection of the people who are identified with him, however need not disassociate with the selection of different candidates. However his presence on the selection advisory group could make a likelihood of bias for his relations yet, since the PSC is a constitutional authority, such a member can't be barred from its work and his essence in the enrolment interaction is obligatorily required. The Court further held that where replacement is conceivable, this doctrine would not have any significant bearing.

Doctrine of Absolute Necessity

The doctrine of 'absolute necessity' is likewise taken as an exception to 'Bias' where it is absolutely important to choose a case of Bias and there could be no other choice left. In Election Commission of India versus Dr. Subramaniam Swamy, the SC was approached to choose whether the CEC TN Seshan, who was purportedly biased for Swamy, due to the long friendship, could take an interest in the offering of input by the EC. The opinion was to be given on the supposed preclusion of Jayalalitha, the then CM of Tamil Nadu under Article 191 of the Constitution. Swamy had made a petition to the Governor charging that Jayalalitha had brought about a preclusion under Article 191 read with Section 9 of the RPA, 1951, to get chosen for the legislative assembly, as at the hour of the election she was involved with

[32] Ashok Kumar Yadav versus State of Haryana AIR 1987 SC 454.

an agreement with the Government. Under Article 192 of the Constitution, prior to giving any decision on such question of exclusion, a Governor is needed to get of the EC, and needs to act as indicated by such opinion. The Governor sent Swamy's petition to the EC for its opinion. Jayalalitha moved the HC of Madras under Article 226 of the Constitution, looking for a writ of denial ordering upon Seshan not to take part in offering input. The HC, through a solitary judge Bench, held that Seshan shouldn't offer input taking into account his bias against Jayalalitha. The Single Judge likewise held that she had not caused any exclusion. On appeal, the Division Bench held that the single judge Bench had been wrong in choosing the subject of Jayalalitha's exclusion, since that question could be chosen by the EC alone. The Division Bench, nonetheless concurred with the Single Judge Bench that Seshan experienced Bias, and subsequently, ought not offer his input. The Division Bench saw that taking into account the arrangement of extra two members on the EC, the EC could offer input through members other than the CEC.On request, the SC affirmed that Seshan ought not offer input. The Court, seen that taking into account the multimember piece of the EC and its previous decision in T.N Seshan versus UOI, where it was held that decisions of the EC ought to be by larger part, while offering input under Art 192(2) of the Constitution, the CEC could get himself pardoned from sitting on the Commission, while an opinion on a matter wherein he was held to be biased was being given. On the off chance that the other two members varied, the CEC could offer input, and the opinion of the larger part would be the opinion of the EC. In that case, however he was biased, he would be needed to offer input

under the doctrine of necessity and simple necessity as well as absolute necessity. Consequently, the doctrine of bias would not be applied.

CONCLUSION

The fundamental objective behind the compromise between the inclusion and exclusion of protection of Principles of Natural Justice is to agreeably understand individual's natural rights of being heard and fair procedure just as the public interest. Bigger public interest is to be permitted to supersede the individual's interest where the justice demands After the conversation of the principles of natural justice it could be concluded that the Courts both in India and England according to administrative proceedings made different exception to the necessity of Natural Justice Principles and procedure there off. Be that as it may, these exceptions are altogether incidental and not indisputable, each exception to be declared permissible or in any case solely after investigating the facts and conditions of each case. The exceptions to the principles of natural justice in UK and India mostly relate to administrative proceedings. The Courts in both these countries particularly in India made different exceptions to the requirement of natural justice principles and procedures considering different circumstances like time, place, and the captured risk, etc. winning at that point of decision-making. It should be noticed that this load of exceptions is conditional and not conclusive. They don't matter in similar way to situations which are not the same. They are not rigid yet flexible. These rules can be adopted and changed by rules and statutory rules

additionally by the Constitution of the Tribunal which needs to choose a specific matter and the rules by which such council is represented. Each action of the authorities to be viewed as an special case should be examined by the Courts relying on the common circumstances. The cases where natural justice principles have been prohibited by suggestion recommend that the Courts have acknowledged the doctrine despite the fact that the assembly has not adopted express words with that impact yet those cases seem to depend so intensely on their specific circumstances that they don't yield an unmistakable general standard.

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