



THE EVOLUTION OF PRINCIPLES OF NATURAL JUSTICE

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ABSTRACT

The Principles of natural justice have its foundation in English common law. In one of the English decisions it was observed by Viscount Haldane that "*...those whose duty it is to decide must act judicially. They must deal with the question referred to them without bias and they must give to each of the parties the opportunity of adequately presenting the case made. The decision must come to the spirit and with the sense of responsibility of a tribunal whose duty it is to meet out justice.*" Natural Justice is an important concept in Administrative law. Principle of Natural Justice says that no man can act as a judge for a cause in which he himself has some Interest, may be pecuniary or otherwise, also, no man can incur the loss of property or liberty for an offence by a judicial proceeding until he has a fair opportunity of answering the case against him. In India the principle is prevalent from the ancient times. In ancient India, duty of a judge was his integrity which means impartiality and total absence of bias or any kind of attachment. Independence and impartiality of judiciary is to be maintained, even king was to adhere to the rules of dharma and he must be above the worldly attachments in deciding the cases. The main aim of natural justice is to provide the fair play which proves to be the peg to good administration. An impartial Tribunal, Notice, Orderly course of justice and Opportunity to be heard are some essentials of the concept of Natural justice. This paper

is an attempt to understand the evolution in the understanding of the term natural justice through case laws where it is discussed in the court of law in a very brief and easy manner.

Keywords: Natural Justice, evolution, fairness, *Audi Alteram Partem*, *Nemo Debet Esse Judex In Propria Causa*.

INTRODUCTION

The concept of Natural Justice has come out from the need of man to protect him since these principles are necessary for just and fair decision making. 'Rules of natural justice is a hedge serving against blatant discrimination of the rights of individuals'. Principles of natural justice can be said as the rules laid down by the courts at different point of time, as being the minimum protection of the rights of the individuals of the society against the arbitrary procedure which may be taken and adopted by judicial, quasi-judicial and also administrative authorities while giving any order affecting those rights. These rules broadly intend to prevent these authorities from doing any injustice in the society. Natural justice is the essence of fair adjudication, deeply rooted in tradition and conscience, to be ranked as fundamental. The purpose of following the principles of natural justice is the prevention of miscarriage of justice.

In the case of *Abbott v. Sullivan*¹, it was stated that "The Principles of Natural Justice are very easy to proclaim; but their precise extent is very less easy to be defined". The court said that it is not possible to define the term Natural Justice also; it is possible only

¹*Abbott v. Sullivan*, 1 A.I.L. E.R. 226 (1952).



to enumerate with some certainty the main principles. Earlier, the expression 'natural Justice' was often used interchangeably with the term natural law, but now the term natural justice has a restricted meaning of it. Further, there are various statements of the Honorable Supreme Court which explains, broadly, the two essential elements of the concept of the Natural Justice namely:

- a. No man shall be Judge in his own cause.
- b. Both sides shall be heard.

There are some other principles also which have been derived and stated to constitute the meaning of the elements of Natural Justice, they are:

- i. The parties to any proceedings must have a due notice of when the Court / Tribunal shall proceed.
- ii. The Courts and Tribunals must act in a complete honest and impartial manner and not under any kind of the dictation of any other person, whosoever, to whom the authority is not granted by the law itself.

These above are the extensions or refinements given to the two principal principles stated above. The main idea of Natural justice is to promote the faith in the society for the administration. The Supreme Court in many hearings, discussed in the further chapters, has discussed and explained the concept and idea behind natural justice.

EXPANSION AND EXTENTION TO THE MEANING OF NATURAL JUSTICE.

The expression 'Natural-Justice' says justice to one's own conscience. It is derived from

the times of Romans, the concept of '*jus - naturale*' and '*Lex naturale*' which refers to the principles of natural law, natural justice, eternal law, natural equity or good conscience.

Lord Esher, in the matter of *Vionet v. Barrett*² exclaimed that, "Natural Justice is similar to the natural sense of what is right and wrong." But from the cases to cases it can be understood that Natural justice has meant and taken different meaning to different people in different cases or at different times. In its broader sense, it was initially used as a synonymous term for natural law. But eventually the meaning has evolved. Later, the concept of natural justice has been used to mean that all the reasons must be given for any decision by the court imparting justice; also that a body deciding any issue has to only act on the basis of evidence of probative value/s.

The concept of natural justice is not new in this era where people know their rights and they claim for justice. The concept of justice gave the term and understanding of natural justice. Without hearing the party or with a partial bench it is not possible to protect the interest and faith of the common people in authorities. Therefore; the court has tried to clarify the concept and discussed in plethora of cases. The interpretation of the term Natural justice in every case forms a base to understand how the expression natural justice is understood and evolution in its meaning. In the beginning, the term Natural Justice was given a different expression by judges in various cases:

²*Vionet v. Barrett*, (55) LJRD 39, 41 (1885).



In the year 1855, LordCranworth, in the matter of *Drew v. Drew and lebura*³,referred Natural Justice as **‘universal Justice’**. He said that the term Natural Justice is nothing but it means universal justice and the justice is lawful and fair. Sir Robert P. Collier, while speaking for the Judicial Committee of the Privy Council, in *James Dunber smith v Her Majesty The Queen*⁴, referred Natural Justice as **‘the requirements of substantial justice’**. Later, Lord Esher, in the matter of *Barrett*, defined the expression natural justice as **‘the natural sense of what is right and wrong’**.

In 1890, Lord Fasher while deciding for the case of *Hookings v. Smethwick Local Board of Health*⁵did not follow the meaning of the term natural justice as what was suggested by Lord Esher previously. Instead, Fasher in the matter of *Hookings*, referred natural justice as **‘fundamental justice’**. Thus, giving the term a different understanding. Harman LJ, in the court of appeal, in the matter of *Ridge v. Baldwin*⁶ countered natural justice with **‘fair play in action’**, a phrase coined by J. Bhagwati in *Maneka Gandhi v. Union of India*⁷. Lord C. J. Parker, referred natural justice as **‘a duty to act fairly’**. Lord Russell from *Willowan* in 1975 said natural justice is **‘a fair crack of the whip’**.L. J. Geoffrey Lane, in *Regina v. Secreary of State for Home Affairs Ex Parte*

*Hosenball*⁸referred the term natural justice as **‘common fairness’**.

Therefore, summarizing the meanings given to natural justice in different cases, *natural justice is*:

1. *Universal justice.*
2. *The requirements of substantial justice.*
3. *The natural sense of what is right and wrong.*
4. *Fundamental justice.*
5. *Fair play in action.*
6. *A duty to act fairly.*
7. *A fair crack of the whip.*

Now, it is clear that the term natural justice has no fixed and strict meaning and the term itself is flexible in its meaning that it can be understood differently in different cases, the idea is justness and fairness to the parties. And the concept of natural justice and its rules is not static.⁹

FRAMING OF THE PRINCIPLES OF NATURAL JUSTICE

Natural justice as a term in itself implies ‘an idea of justice’. We have already seen that the idea of justice is evolving and changing depending upon the facts and circumstances and also the needs. Therefore, court felt to discuss the term in depth for the better understanding and application of the same. The court has tried to make the broad concept of natural justice and discussed it in detail.

³*Drew v. Drew and lebura*, (2) Macg. 1.8 (1855).

⁴*James Dunber smith v. Her Majesty the Queen*, 3 A.C. 614 (1877).

⁵*Hookings v. Smethwick Local Board of Health*,24 QBD. 712 (1890).

⁶*Ridge v. Baldwin*, AC 40 (1964).

⁷*Maneka Gandhi v. Union of India*,(1978)A.I.R.S.C. 597.

⁸*Regina v. Secreary of State for Home Affairs Ex Parte Hosenball*,1 W.L.R. 766(1977).

⁹*Hira Nath Mishra and Ors. v. the Principal Rajendra Medical College, Ranchi and Ors.*,(1973)A.I.R. S.C. 1260.



The strict rules of natural justice are laid down by the authorities not with main view of fairness in the bench but the main idea was to promote confidence among the common people towards the administration of the state. Therefore; it is said that justice is something which is not merely imparting justice but it should look like justice is imparted. This has also done to ensure that no personal interest should make the court of law bias in nature and judgments. The “Interest” can be anything like pecuniary benefit or anything. Interest is generally understood not as favor. Any interest if it found with the judge will disqualify him or her to pass any judgment in that case matter and all the proceedings are struck down.

Further, it must be noted that the matters of public interest are excluded and magistrate having similar interest as general public will not disqualify him to hear the proceeding and pass an order. *“The interest or bias, which disqualifies is an interest, in the particular case, something, reasonably likely to bias or, influence the mind of the magistrates in the particular, case.”*

The another essential Principle is “*audialterampartem*”, this states that parties to a matter or issue has a right to be heard in the court of law before making any final decision regarding the case. It is always allowed to dispute the opponent’s case, to cross examine the opponent’s witnesses and to call witnesses to support and defend his own matter. The party is always allowed to give its own evidence before the court. Also, this principle explains the idea of knowing the reason for the final statement of the court and tribunals.

In the case of *Union of India v. Tulsiram Patel*¹⁰ which was reported in AIR 1985 SC, the issue concerned about Article 309, 310, 311 of the constitution of India. In this case SC analyzed in detail the concept of natural justice and its Principles. SC held that the concept of Principle of natural justice is not the creation of Article 14 of the constitution of India and traced the ancestry of the concept of natural justice as discussed above. Further court says that after interpreting the evolution and the understanding in the concept of natural justice, it can be derived that the concept contains two rules. They being:

- a. A man shall be a judge for/in his own matter.
- b. It is essential to hear the other side.

Therefore, from the above it was stated that whoever decide anything without hearing the other party to the matter, is said to do wrong and injustice. Justice should not just seem to be done but should look to be done.

In the case, *Viswanathhan v. Abdul Wajid*¹¹, Principles of Natural Justice was again discussed. The court said that the judgments given by the courts or tribunals must observe the minimum requirement of natural justice. The court must act fairly, without bias and in good faith. It further observed that any judgment which is biased or partial will be a trial *coram non judice*.

In *Canara bank & others. V. Sri Debasis Das & others*¹², the Supreme court analyzed the depth of the concept of Natural Justice and its Principles, while hearing for the scope and ambit of the “*Canara bank*”

¹⁰Union of India v. Tulsiram Patel,(1985)A.I.R. 1416.

¹¹Viswanathhan v. Abdul Wajid,(1963) A.I.R. 1

¹²Canara bank & others. v. Sri Debasis Das & Ors. (2003)4 S.C.C. 557



officers employees Regulations, 1976” in this case the supreme court summarized the concept of natural justice in a broader sense and gave the idea and understanding for the rules of natural justice.

The concept has completely evolved over time and then interpretation is not static for every matter heard in the court of law. It was analyzed that the expression Natural justice and its Principles depend on what are the facts of the case. It was said that any order violating the broad essentials of natural justice, i.e., not inviting the other party of the matter to present his case or giving a partial judgment will make the judgment completely vitiated. Further, the concept has evolved beyond imagination. In *M. C. Mehta v. Union of India*¹³, the court says if the party has no ‘*real substance*’ and also if that there is no possibility of success on his part that is the results will not be different after admitting his contentions.

THE ESSENTIALS TO THE PRINCIPLES OF NATURAL JUSTICE.

Audi Alteram Partem:

In any case, the parties should be given a very fair chance to represent in the court of law. This suggests that the party has a right to defend its case. The notice is always given to a person before making any judgment. The party has always right to know what is the reason behind its accusation. Therefore, the phrase *audi alteram partem* means the parties to the case should be given fair chance to represent themselves in the matter.

¹³M. C. Mehta v. Union of India, (1987) S.C.R. (1) 819.

Now in the case of *Nataur Nagar Palika v. Uttar Pradesh public service tribunal*¹⁴, it is where despite of the continuous reminders to the employees they did not appear or replied. The court gave the judgment without listening to them. This case is not said to violate the Principles of Natural justice since they were given fair chance to which they did not reply. Therefore, the party itself waived the right of representation before the court to explain its side of the case, and is not violating the principles of natural justice. In *Ajit K. Nag v. General Manager of Indian oil Corp.*¹⁵, is a case which held ‘*the non-observance of principles of natural justice vitiates the order only when some real prejudice is caused to the complainant*’. Therefore; after this case the said principles stated to be applied depending upon the facts and circumstances of the case. Facts and circumstances are the essence to this principle.

Nemo Debet Esse Judex In Propria Causa:

The idea behind this maxim is that no party can be the judge of his own case matter. This is conduct fair trial which is unbiased and impartial in nature. Disciplinary authorities which include all courts and tribunals should give fair judgment so to have the faith in the decisions. No cause or matter which is related to the judge or it is anyway his matter of interest can be decided by him. The matter of interest may include any kind of benefit like ill-will or any personal connection with the party or may

¹⁴*Nataur Nagar Palika v. Uttar Pradesh public service tribunal*, (1998) 79 S.C.C. 746.

¹⁵*Ajit K. Nag v. General Manager of Indian oil Corp.*, (2005) 7 S.C.C. 764.



be some official biasness. It should be noted that the concept is the same but has different understanding based on facts of the case.¹⁶ In the matter of Mukhtar Singh v. State¹⁷ the court was in the opinion that any matter should be decided by the tribunal or any authority which is competent should be impartial. No direct interest in the matter should make the decision biased. Also, if anyone found biased in the dealing of the case will be struck down.

Similarly, in industrial disputes, the argument for good faith and bad faith of the employer is of great importance. In any way if it is proved that the employer has any personal interest or gain then the employer is held liable¹⁸. Therefore; this is the reason for the enquiries in industrial matters are scrupulous when it come to rules of fairness and natural justice. Further in the matter of AnandramVaswani v. UOI¹⁹, it was discussed and analyzed that whatever ruling the court gives should not only be done in a just manner but should appear in a just and fair nature.

CONCLUSION

After analyzing the concept of natural justice it is understood that the idea behind Principles of natural justice is simply, fair adjudication. Principles of natural justice aims to identify what is right and what is wrong. As discussed, the term is flexible with its meaning and understanding

depending upon the facts and circumstances. The aim is to provide justness and fairness. Also, the main objective to gain public faith in the competent authorities. As it is impossible to give a specific meaning to Justice in similar manner no thumb rule can be made to make the concept of natural justice complete? The expression takes its meaning according to the facts of the cases. Principles of Natural justice is a way for the parties to let them represent their case and their contentions. Through these Principles parties are always allowed to make their statements in the court of law. Also, the Principles of natural justice state that no Judge can be partial while delivering the judgment ensuring the fair trial of any case. Therefore Principles of Natural justice helps the parties to get justice and a fair judgment but the understanding and application changes and is not static. The principles have also certain exceptions.

Natural justice is seen as the essence and the core concept to enhance the fair trial and gain the public faith. Through rules of natural justice, it is very easy for the state to impart justice at large in the society. The main target is to ensure fairness among common people of the state. These ideas therefore make the researcher to study the evolution and modification in the understanding of what exactly is the idea of natural justice and to make a brief after understanding the case laws in which the principles are widely discussed. The evolving nature makes the concept to be analyzed very carefully and it is important to understand the scope, the extent, and also the implications of the judgments regarding natural justice.

¹⁶ SujataManojar, Principles of Natural Justice, (March 22, 2008).

¹⁷Mukhtar Singh v. State, (1957)A.I.R. ALL 297.

¹⁸ Model Mills Ltd., Nagpur v. State Industrial Court, (1984) A.I.R. 1813.

¹⁹AnandramVaswani v. U.O.I.,(1983)2 LLN 510.