

# The Bedrock of Fairness: Principles of Natural Justice in Legal Adjudication

By *Mohua Singh*

*Company Secretary, Member of Institute of Company Secretaries of India*

---

## **Abstract:**

*This article examines the Principles of Natural Justice, highlighting their fundamental role in ensuring fairness, transparency, and due process in the administration of justice. The honourable Supreme Court's position on Natural Justice as elaborated in the Canara Bank Vs. Debasis Das's case underlines its role in liberating the administration of justice from narrow consideration and linguistic technicalities.*

*The article emphasizes the centrality of two core principles – Nemo Judex in Causa Sua and Audi Alteram Partem. Bias and its type are explored in detail. It also delves into essential components of Audi Alteram Partem, highlighting their significance in upholding fairness. Exceptions to the Principles of Natural Justice, such as legislative work, emergencies, statutory exclusion, academic adjudication, public interest, and confidentiality, are presented to delineate circumstances where fairness may be excluded.*

*Ultimately, the article underscores the significance of natural justice in upholding the rule of law, preventing arbitrariness, and protecting individual rights.*

**Keywords:** Principles of Natural Justice, Fairness, Transparency, Due Process, Supreme Court, Nemo Judex in Causa Sua, Audi Alteram Partem, Bias, Exceptions, Rule of Law, Arbitrariness, Individual Rights

## Introduction

For a law to be effective in preserving the welfare of humans and society, it needs to be moral not only on the substantive side but also on the procedural side. Hence, the Principles of Natural justice have been in existence for ages to give effectiveness to the procedural side of a law.

Natural Justice is another name for common sense justice. Justice is based substantially on natural ideas and human values. The administration of justice is to be freed from narrow and restricted considerations that are usually associated with a formulated law involving linguistic technicalities. It is the substance of justice that must determine its form. The principles of natural justice are not explicitly defined in statutes but are instead inherent notions deeply embedded in the moral consciousness of individuals. Natural justice involves the dispensation of justice pragmatically and equitably.

The literal meaning of the word 'nature' is the innate tendency or quality of things or objects and the word 'just' means upright, fair, or proper. Hence expression 'natural justice' would mean the innate quality of being fair. Natural justice represents the foundational element of fairness, ensuring that not only is justice achieved, but also is perceived as such.

The Supreme Court in its comprehensive judgment in the case of *Canara Bank v. Debasis Das*<sup>i</sup> described natural justice as under:

*"Natural Justice is another name for common-sense justice. Rules of natural justice are not codified canons. But they are principles ingrained into the conscience of man. Natural justice is the administration of justice in a common-sense liberal way. Justice is based substantially on natural ideals and human values. The administration of justice is to be freed from the narrow and restricted considerations that are usually associated with a formulated law involving linguistic technicalities and grammatical niceties. It is the substance of justice which has to determine its form. ... The expressions 'natural justice' and 'legal justice' do not present a watertight classification. It is the substance of justice that is to be secured by both, and whenever legal justice fails to achieve this solemn purpose, natural justice is called in aid of legal justice. Natural justice relieves legal justice from unnecessary technicality, grammatical pedantry, or logical prevarication. It supplies the omissions of a formulated law. As Lord*

*Buckmaster said, no form or procedure should ever be permitted to exclude the presentation of a litigant's defense. ... Principles of natural justice are those rules that have been laid down by the courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice."*

### **Purpose of Natural Justice**

1. Fair action and satisfactory decision-making.
2. Check on freedom of administrative actions.
3. Prevent miscarriage of law.
4. Protects fundamental rights.

In the case of *Maneka Gandhi V. Union of India*<sup>ii</sup>, the Supreme Court by majority held that the legal framework known as the "procedure established by law" is not confined to mere formality; Rather, it implies a process inherently right, just, and fair, devoid of arbitrariness, capriciousness, or oppression. The highest court has emphasized that a procedure lacking these essential qualities cannot be considered a legitimate procedure. The Court observed that Natural law rights were meant to be converted into our constitutionally recognized fundamental rights so that they are to be found within and not outside it.

The rules of natural justice are rooted in Article 14 and Article 21 of the Constitution. Article 14 deals with equality and Article 21 deals with the right to life and personal liberty, which is clearly defined in the case *Maneka Gandhi Vs. Union of India*. The Supreme Court while interpreting Article 14 of the Constitution identified the concept of arbitrariness in state action. They stated that arbitrariness is against equality and hence Article 14 requires that the state should act in a just and fair manner while taking any action or decision. Natural Justice principles ensure the procedural safeguards by the State for striking down the arbitrariness. Hence, Natural justice principles are very much embodied in Article 14, and gradually principles of natural justice became part of Article 14 by the various interpretations of the honourable Apex Court.

## Essential Elements of the Principles of Natural Justice

The principles of natural justice once stood for ideas such as morals, ethics, good faith, equity, and good conscience. However, in the modern era, the principles of natural justice represent minimum standards of fairness in adjudicating disputes.

In the case of Mohinder Singh Gill & Anr vs The Chief Election Commissioner<sup>iii</sup>, on 2 December 1977, the honourable Supreme Court stated that:

*“The rules of natural justice are rooted in all legal systems and are not any 'new theology. They are manifested in the twin principles of nemo index in sua causa and audi alteram partem. It has been pointed out that the aim of natural justice is to secure justice, or, to put it negatively to prevent miscarriage of justice. These rights can operate only in areas not covered by any law validly made. They do not supplant the law of the land but supplement it. The rules of natural justice are not embodied rules. What particular rules of natural justice should apply to a given case must depend to a great extent on the facts and circumstances of that case, the framework of the law under which the inquiry is held, and the constitution of the tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a court that some principles of natural justice have been contravened, the court has to decide whether the observation of that rule was necessary for a just decision on the facts of that case. Further, even if a power is given to a body without specifying that rules of natural justice should be observed in exercising it, the nature of the power would call for its observance.”*

The two elements of the Principles of Natural Justice are:

- (i) Nemo Judex in Causa Sua
- (ii) Audi Alteram Partem

***Nemo Judex in Causa Sua*** means that no man shall be a judge in his own cause. In other words, a judge must not adjudicate upon a cause in which he has a bias or interest. Black's Law Dictionary defines bias as a "condition of mind, which sways judgment and renders judge

unable to exercise his functions impartially in a particular case". Bias means anything that tends or may be regarded as tending to cause a person to decide a case otherwise than on evidence. The bias that disqualifies must be one in the matter to be litigated. A mere general interest in the general object to be pursued will not disqualify a judge.

Three maxims on which the rule against bias or interest is based:

1. ***Nemo debet esse iudex in propria causa*** - No one ought to be a judge in his/her own cause.
2. **Justice should not only be done but manifestly and undoubtedly be seen to be done** – It is sufficient that there is a reasonable suspicion about the adjudicator’s fairness. It is not necessary to prove that the decision was influenced by bias.
3. **Caesar's wife must be above suspicion** – The Supreme Court held that “A judge, like Caesar's wife, must be above suspicion.” Showing undue favour to a party under the guise of passing judicial order is the worst kind of judicial dishonesty and misconduct.

#### **Type of bias:**

- a. **Bias of subject matter-** When an adjudicator shows prejudice on the subject matter in dispute, a bias of the above description arises. It is one of the disqualifying types of bias although to establish bias of this nature a demonstrative relationship between the subject matter of the litigation and the working of the adjudicator's mind is to be proved. A mere personal interest in the general object to be pursued would not be a ground for disqualification.
- b. **Pecuniary bias-** The most suspicion of bias arises when the adjudicator has a pecuniary interest. Any direct pecuniary interest, however small, in the subject matter of inquiry, would disqualify an adjudicator. The basic purpose of this disqualification is that the litigant should have faith in the judge. Otherwise, it will lead to the failure of the application of the rule of natural justice.
- c. **Personal bias-** Several circumstances can lead to personal bias. The decision maker can be a friend, family, or associate in a business or in a professional relationship, or may have some hostility to one of the parties of the dispute. Personal bias arises from

a certain relationship equation between the deciding authority and the parties that incline him unfavorably or otherwise on the side of one of the parties before him. The two tests to determine personal bias are i) real likelihood of bias and ii) reasonable suspicion of bias. The reasonable suspicion test looks mainly at outward appearances and the real likelihood test focuses on the court's evaluation of the probabilities. In **Mineral Development Ltd. V. State of Bihar**<sup>iv</sup>, the revenue minister cancelled the petitioner's license for the lease of certain land. There was political rivalry between the petitioner and the Minister who had even filed a criminal case against the former. It was held that since there was personal bias against the petitioner, the Minister should not have taken part in cancelling his license.

- d. **Administrative Bias** - The existence of any conflict between an administrative officer's interest and duty results in creating administrative bias. There must not be any conflict between an administrative officer's interest and duty. Where it exists, it cannot be believed that such an officer can be impartial.
- e. **Official Bias or Policy Bias** - Official bias may occur when an adjudicator possesses prior personal knowledge of the material facts in a case due to previous involvement with those facts in a different capacity or context. In such instances, the potential for predispositions or pre-existing inclinations influencing the adjudicator's stance for or against a party in the current case cannot be dismissed.

*Audi Alteram Partem* means no man shall be condemned unheard. This rule is an essential element of justice. It necessitates that the individual responsible for deciding provides the involved parties an opportunity to be heard. Moreover, it emphasizes the importance of affording a fair opportunity to all parties in the dispute, enabling them to counter or rectify any information that may be detrimental to their stance.

In the case of *Union of India Vs. Tulsiram Patel*<sup>v</sup>, the honourable Supreme Court of India explained the meaning of this rule as follows:

"..audi alteram partem rule, in its fullest amplitude means that a person against whom an order to his prejudice may be passed should be informed of the allegations and charges against him, be given an opportunity of submitting his explanation thereto, have the right to know the

evidence, both oral or documentary, by which the matter is proposed to be decided against him, and to inspect the documents which are relied upon for the purpose of being used against him, to have the witnesses who are to give evidence against him examined in his presence and have the right to cross-examine them, and to lead his own evidence, both oral and documentary, in his defense...".

The essential elements of the *Audi Alteram Partem* rule are:

**a. Notice**

Notice is the first limb of this rule. One of the essential principles of natural justice is that the persons whose rights are to be affected must be given notice of the case or the charges that he has to meet. To give notice is to bring matters to a person's knowledge or attention. The notice must provide information about the charges or cases made against the person and give a fair opportunity to answer those charges.

Key elements of notice –

1. Notice to be addressed correctly – In **Commissioner of Income Tax V. Bibhuti Bhusan Mallick**<sup>vi</sup> the name of the assessee was not correctly mentioned. The Calcutta High Court declared the notice so issued as invalid and held the reassessment proceeding based on such a notice was invalid. The court's position in the preceding cases emphasizes that if a notice is not dispatched to the accurate address or the proper individual, it undermines the entire intent behind the notice and subsequent hearing.
2. Notice to be served in adequate time – If the purpose of providing notice is to allow individuals an opportunity to make representation, the notice must be served in sufficient time to ensure the effectiveness of the representations made by those affected. In **Canara Bank V. Debasis Das**<sup>vii</sup>- It was held that notice is the first limb of the principle that no one should be condemned unheard. It must be precise and unambiguous. It should inform the party determinatively of the case he has to meet and

should give adequate time. In the absence of notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated.

3. Notice to specify time and place - The court has stated that clear notice should specify the place, date, and time for a fair opportunity of hearing to concerned parties.
4. Notice should be fair and adequate – The notice should mention all the grounds for the proposed action against the person to whom the notice is issued (noticee). The content of the notice should be clear and specific. Its contents are structured to afford the noticee a fair opportunity to adequately prepare his defense.

In the case of **Ambika Devi V. State**<sup>viii</sup>, the court held that “...any notice calling upon the party to show cause must prescribe the time and place of hearing and the period within which show cause may be filed. This is not to say that the notice must necessarily be a lengthy document. The notice may be precise and brief but must convey to the noticee all information which is necessary for him in order to make an effective representation and not to be taken by surprise, in the proceeding. The instant case is not one of inadequacy of notice, but a case where no, notice at all was given to the petitioner, except that she was informed of the date of hearing without being told as to what was the case which she was called upon to meet. ... There is no doubt in my mind that in the circumstances the principles of natural justice were breached for non-compliance with the requirement of a proper notice.”

5. Mode of serving notice - The notice must be dispatched through a method that ensures effective service to the addressee. The service of the notice shall adhere to the appropriate modes as sanctioned by statute.

**b. Hearing – Oral & personal hearing**

Hearing is an important element of the *Audi Alteram Partem* rule. The authorities must ensure that a fair chance of hearing is given to both parties before passing a judgement. The authority holds the discretion to fulfill this requirement by offering either a written



or oral hearing unless the statute provides otherwise. In India, an oral hearing is not part of natural justice. If the statute prescribes, there can be an oral hearing that the authority must observe. An oral hearing is the discretion of the authority to give according to the facts and circumstances of the case.

In *M. P. Industries v. Union of India*<sup>ix</sup>, Justice Subba Rao held that an opportunity to be heard need not be a personal or oral hearing. It can be by writing. Whether said opportunity should be by written representation or by personal hearing depends upon the facts of each case, ordinarily, it is at the discretion of the tribunal.

### c. Evidence

The presentation of evidence before the court is an important aspect that must be conducted appropriately in the presence of both parties, ensuring a fair and just process before a judicial or quasi-judicial authority. No evidence oral or personal should be recorded at the back of the other party. If any evidence is recorded in a manner that excludes the other party, it becomes the authority's responsibility to ensure that such evidence is promptly disclosed to the opposing party. This transparency is essential to uphold the principles of fairness and due process in legal proceedings. "Where a statutory authority relies upon a document in a proceeding but denies a copy of the same to the affected party, he violates the principles of natural justice as the opportunity of being heard should be an effective opportunity but not an empty formality" (**I.E. Vittal and Anr. vs Appropriate Authority and Ors.**<sup>x</sup>). However, it must be noted that rules of natural justice cannot remain the same applying to all conditions.

### d. Cross-examination

In *Union of India V. Tulsiram Patel*<sup>xi</sup>, the Supreme Court held that the rule of audi alteram partem in its fullest amplitude means that a person against whom an order to his prejudice may be passed, has also inter alia, the right to have the witnesses, who are to give against him, examined in his presence and has the right to cross-examine them and to lead his evidence both oral and documentary in his defense.

Cross-examination is the sine qua non of due process of taking evidence and no adverse inference can be drawn against a party unless is put on notice of the case made out against him. He must be supplied with the contents of all such evidence both oral and documentary, so that he can prepare to meet the case against him. This necessarily postulates that he should cross-examine the witness hostile to him.

However, the right to cross-examine a witness may be dispensed with if the exercise of such a right is not feasible or it is impracticable. In the case, **Kanungo & Co. v. Collector of Customs**<sup>xii</sup>, the business premises of a person were searched, and certain watches were confiscated by the authority under the Sea Customs Act. The said person was not allowed to cross-examine the person who gave information to the authority.

**e. Right to legal representation**

In **N.N. Bagchi V. Chief Secretary, West Bengal**<sup>xiii</sup>, it was held that where complicated questions of law and fact arise in an adjudicatory proceeding, or where elaborate evidence is to be presented, and the party himself is not equal to the task to cope up with the situation effectively, denial of legal representation may amount to a denial of natural justice.

However, in **Krishan Chandra V. Union of India**<sup>xiv</sup>, it is held that where there is no legal complexity in the case, and no oral testimony is to be recorded, or where the individual himself is qualified to handle the case, refusal of a counsel to him may not amount to a violation of natural justice.

Thus, the issue of legal representation should be assessed based on the factual context of each case.

In **Poolpandi V. Supdt, Central Excise**<sup>xv</sup>, when a person is being interrogated by the FERA customs or (Foreign Exchange Regulation), the presence of a lawyer is not necessary. The concerned person cannot be regarded as an accused to attract the

protection of Art. 20 (3) of the Constitution, nor does it violate the norms of "just, fair and reasonable" procedure under Art. 21.

Engaging legal representation in administrative adjudication is not considered an indispensable component of a fair hearing. But in certain situations when the right to legal representative is denied, then such denial may amount to violation of principles of natural justice. The court extensively deliberates that when one party accuses another and presents its case to a committee with the aid of a legal expert or advisor, the affected party should be entitled to legal representation. This is especially crucial when the individual affected is illiterate or lacks comprehensive knowledge of both facts and the law, as they may face challenges during the hearing that could lead to an unfavorable outcome.

**f. Showing report of inquiry to the other party**

After the completion of the inquiry, the authority should promptly provide the report to the concerned party. The charged person must receive the inquiry officer's report before any final decision is made. Failing to furnish the inquiry report to the affected party before the competent authority's final decision would constitute a breach of the principles of natural justice.

In **Union of India & Ors vs E. Bashyan**<sup>xvi</sup>, the court held that "In the event of failure to furnish the report of the Enquiry officer, the delinquent is deprived of crucial and critical material which is taken into account by the real authority who holds him guilty namely, the Disciplinary Authority. He is the real authority because the Enquiry officer does no more than act as a delegate and furnishes the relevant material including his own assessment regarding the guilt to assist the Disciplinary Authority alone records the effective finding in the sense that the findings recorded by the Enquiry officer standing by themselves are lacking in force and effectiveness. Non-supply of the report would therefore constitute a violation of principles of natural justice and accordingly will be tantamount to denial of reasonable opportunity within the meaning of Article 333 (2) of the Constitution. There can be glaring errors and omissions in the report. Or

it may have been based on no evidence or rendered in disregard of or by overlooking evidence. If the report is not made available to the delinquent. this crucial material which enters into the consideration of the Disciplinary Authority never comes to be known to the delinquent and he gets no opportunity to point out such errors and omissions and disabuse the mind of the Disciplinary Authority before he is held guilty or condemned.”

**g. Reasoned decision**

Recording statements of reason is another essential component of the Principles of Natural justice. There is a general obligation on adjudicatory bodies to give reasons for their decision even if the respective statute imposes no such obligation. The duty to give reasons is a safety value against arbitrary exercise of discretionary power. The minimum requirement of the rule of law is that one ought not to be deprived of his rights without the authority of the law.

In the case of **Woolcombers of India Ltd vs Woolcombers Workers Union**<sup>xvii</sup>, honourable Supreme Court of India gave the following reasons as to why giving reasons in support of a conclusion is essential for authorities:

- (i) Reasoned decisions prevent unconscious unfairness or arbitrariness in reaching conclusions.
- (ii) Justice should not only be done but also appear to be done. Unreasoned conclusions may be just, but they may not appear to be just to those who read them. Reasons conclusions, on the other hand, will have the appearance of justice.
- (iii) In case of appeal, a judgment that does not disclose the reasons, will be of little assistance to the Court. The Court will have to wade through the entire record and find for itself whether the decision in appeal is right or wrong.

**Exceptions to the Principles of Natural Justice:**

1. Exclusion in legislative work: ‘Legislative process’ refers to the process of deliberate law-making by a person or body of persons recognized by a particular legal system as having power and authority validly to make the law. Principles of Natural Justice cannot

be raised in the matter of legislative action. If the Legislature, in the exercise of its plenary power under Article 245 of the Constitution, proceeds to enact a law, those who would be affected by that law cannot legally raise a grievance that before the law was made, they should have been given an opportunity of hearing.

2. Exclusion in case of Emergency: In India, it is generally acknowledged that in cases of extreme urgency, where the public interest is at risk due to the potential delay or publicity associated with a formal hearing, a pre-condemnation hearing will not be required by natural justice. Also, in exceptional cases of emergency in which immediate, preventive, or remedial actions are needed, the requirement of notice and hearing is set aside.
3. Statutory exclusion: When any statute prohibits the use of natural justice standards through an express arrangement or fundamental ramifications, the courts must comply with the mandate of the legislature. Any statutory exclusion of procedural fairness will be construed strictly. Thus, where a statutory provision did not expressly or by necessary implication exclude the right to legal professionals' privilege, the provision was interpreted not to do so.
4. Academic adjudication: In situations where the authority is purely administrative, the entitlement to a right of hearing may not be applicable. In the case of **Jawaharlal Nehru University v. B.S. Narwal**<sup>xviii</sup>, B.S. Narwal, a student at JNU, was removed from the academic rolls due to unsatisfactory academic performance, without being granted a pre-decisional hearing. The Supreme Court, in its ruling, emphasized that the inherent nature of academic adjudication seems to negate any inherent right to an opportunity to be heard. It was held that if competent academic authorities meticulously examine and assess a student's work over a period, subsequently declaring it unsatisfactory, the principles of natural justice may be excluded in such academic matters.

5. Prohibition in the event of Public Interest: Any act or thing done against the interest of the general public is void ab initio. In situations in which immediate actions are needed in public interest or public morality, the requirement of notice and hearing may be excluded.
  
6. Exclusion in case of confidentiality: Circumstances in which confidentiality is demanded and is necessary principles of natural justice may be excluded from consideration. In the case of **Malak Singh v. State of Punjab and Haryana**<sup>xix</sup>, the Supreme Court ruled that the Surveillance Register maintained by the Police is confidential. This means that neither the person whose name is listed in the register, nor any other member of the public can access it. The Court also noted that applying the principles of natural justice in such cases might undermine the purpose of surveillance. There's a risk that trying to be fair in such situations could end up defeating the goals of justice rather than serving them.

## Conclusion

In conclusion, the principles of natural justice serve as the bedrock of a just and equitable legal system. Rooted in the moral consciousness of individuals, these principles uphold fairness, transparency, and due process in the administration of justice. The twin pillars of natural justice -Nemo Judex in Causa Sua and Audi Alteram Partem- provide a strong foundation for procedural fairness. Every action of authorities must be supported with reasons. When decisions are required to be adequately justified, the authorities would ensure fairness and transparency in the proceeding, thus reducing the arbitrariness. This is the very essence of the rule of law and its bare minimum requirement. However, there are also exceptions to the principles of natural justice in situations in which fairness would lead to injustice. The principles of natural justice do not supplant laws but supplement laws. Overall, a comprehensive understanding of natural justice is vital for cultivating trust in legal systems, safeguarding from arbitrary actions, and protecting the fundamental rights of individuals.

## References

---

- <sup>i</sup> AIR 2003 SC2041
- <sup>ii</sup> 1978 AIR 597, 1978 SCR (2) 621
- <sup>iii</sup> 1978 AIR 851, 1978 SCR (3) 272
- <sup>iv</sup> AIR 468, 1960 SCR (2) 909
- <sup>v</sup> AIR 1985 SC 1416
- <sup>vi</sup> (1987) 55 CTR Cal 33, 1987 165 ITR 107 Cal
- <sup>vii</sup> AIR 2003 SC2041
- <sup>viii</sup> AIR 1988 Pat 258
- <sup>ix</sup> AIR 1966 SC 671
- <sup>x</sup> 1996 (3) ALT 707, (1997) 137 CTR AP 396, 1996 221 ITR 760 AP
- <sup>xi</sup> AIR 1985 SC 1416
- <sup>xii</sup> AIR 1972 SC 2136
- <sup>xiii</sup> AIR 1961 Cal 1, 65 CWN 361, (1961) IILLJ 312 Cal
- <sup>xiv</sup> AIR 1974 SC 1589
- <sup>xv</sup> AIR 1992 SC 1795
- <sup>xvi</sup> 1988 AIR 1000, 1988 SCR (3) 209
- <sup>xvii</sup> 1973 AIR 2758, 1974 SCR (1) 504
- <sup>xviii</sup> 1980 AIR 1666, 1981 SCR (1) 618
- <sup>xix</sup> 1981 AIR 760, 1981 SCR (2) 311