



# General Principles of Law & Principles of Natural Justice

---

Dr.G.B.Reddy  
University College of Law  
Osmania University  
Hyderabad



# Law – Definition & Meaning

---

- collection of rules imposed by authority
- legal document setting forth rules governing a particular kind of activity
- principles and regulations established by some authority and applicable to its people, as legislation or custom or policies recognized & enforced by courts.
- all rules of conduct established and enforced by authority, legislation, or custom of given community, state, or other group or any one of such rules



# Law in Jurisprudence

---

- **Austin** – Law is the command of sovereign enforceable by sanctions
- **Salmond**- Law is body of principles recognised by State and applied by it in administration of justice
- **Roscoe Pound**- It is a tool of social engineering



# Kinds of Law

---

- Codified & uncodified
- International & municipal
- Substantive and procedural
- Civil and criminal
- Secular and Personal
- Supreme and ordinary/organic etc



# Sources of Law

---

- **Legislation** – Constitution, Statutes, Rules etc
- **Custom**- practice (s) passed on by one generation to the next- ancient, certain, uniform, not opposed to public policy & continuous
- **Precedent**- authoritative & persuasive-ratio decidendi & obiter dicta



# General Principles of Law

---

- Rule of Law
- Separation of Powers
- *Ubi jus ibi remedium*
- *Ignorantia facti excusat-ignorantia juris non excusat*
- *Volenti non fit injuria* ( damage suffered by consent is not a cause of action)
- *Res ipsa loquitur* (the thing speaks for itself)



# General Principles of Law

---

- *Actus non facit reum nisi mens sit rea*  
(the intent and the act both concur to constitute the crime)
- ***Nemo debet bis vexari pro una et eadem causa*** (it is a rule of law that a man shall not be twice vexed for one and the same)
- “**FIAT JUASTITIA RUAT COELUM**” — let justice be done, though the heaven should fall.
- Principles of Natural Justice

# Principles of Natural Justice



---

- Rules not generally embodied & not fixed by any code
- Have been developed to secure justice and to prevent miscarriage of justice
- Based on the maxim - *Justice should not only be done but should manifestly be seen to be done*
- Encompass Rule against bias & Rule of fair hearing
- Applicable to administrative and quasi-judicial proceedings

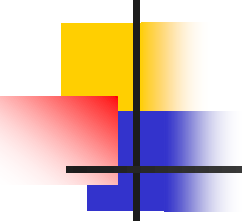




# Natural Justice

---

- 'Natural Justice' is an expression of English common law
- **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 "jura naturalia" i.e. natural law.
- "...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." [Viscount Haldane in *Local Government Board v. Arlidge* (1915) AC 120 (138) HL]

- 
- 
- “Indeed, natural justice is a pervasive facet of secular law where a spiritual touch enlivens legislation, administration and adjudication, to make fairness a creed of life. It has many colours and shades, many forms and shapes and, save where valid law excludes, it applies when people are affected by acts of authority.... Indeed from the legendary days of Adam-and of Kautllya's Arthashastra-the rule of law has had this stamp of natural justice...”

[Supreme Court In the case of Mohinder Singh Gill v. Chief Election Commissioner, AIR 1978 SC 851]

# Administrative Power & Quasi-Judicial Power

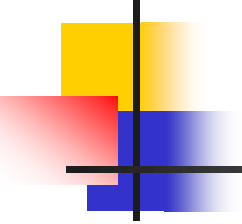
- **The dividing line between an administrative power and a quasi-judicial power is quite thin and is being gradually obliterated.** For determining whether a power is an administrative power or a quasi-judicial power one has to look to the nature of the power conferred, the person or persons on whom it is conferred, the framework of the law conferring that power, the consequences ensuing from the exercise of that power and the manner in which that power is expected to be exercised. .... In a welfare State like ours it is inevitable that the jurisdiction of the administrative bodies is increasing at a rapid rate. The concept of rule of law would lose its vitality if the instrumentalities of the State are not charged with the duty of discharging their functions in a fair and just manner. **The requirement of acting judicially in essence is nothing but a requirement to act justly and fairly and not arbitrarily or capriciously.** The procedures which are considered inherent in the exercise of a judicial power are merely those which facilitate if not ensure a just and fair decision. **In recent years the concept of quasi-judicial power has been undergoing a radical change. What was considered as an administrative power some years back is now being considered as a quasi-judicial power. (SC in A.K.Kraipak,1970)**



# Rule against Bias

---

- Originates from maxim- **Nemo debet esse judex in propria sua causa** (no man can be a judge in his own cause)
- The rule disqualifies a person from deciding a dispute in which he has- **pecuniary bias; personal bias; or bias relating to subject matter**
- Includes **pre-conceived notion bias**
- **Instances: personal bias -A.K.Kraipak v.UoI AIR 1970 SC 150; pecuniary bias- Dimes v. Grand Junction Canal & Co [1852,H. of Lords]- the decision of LC in favour of the Canal company-quashed by H.of Lords since he was a shareholder in the co. See Jeejeebhoy v.Asst.Collector of Thana AIR 1965 SC 1096** Js Gajendragadkar reconstituted the Bench for hearing a case on the ground that he was a member of the cooperative society for which the land in dispute was acquired.

- 
- 
- In one of the cases order of punishment was held to be vitiated, as the officer who was in the position of a complainant/accuser/witness, could not act as an enquiry officer or punishing authority. There may be a possibility, consciously or unconsciously to uphold as Enquiry Officer what he alleges against the delinquent officer. ([State of U.P. v. Mohammad Nooh, AIR 1958 SC 86](#)).
  - Justice Gajendragadkar, as then he was, observed in a case reported in AIR 1965 SC 1061, *M/s Builders Supply Corporation v. The Union of India and others*, "it is obvious that pecuniary interest, howsoever small it may be, In a subject matter of the proceedings, would wholly disqualify a member from acting as a judge".



# Rule against Bias

---

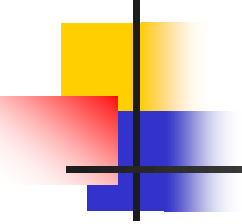
- **Bias relating to subject matter – Gullapalli Nageswara Rao v. APSRTC 1959, SC** – scheme for nationalization of motor transport notified by State Govt.-quashed since the Secretary who initiated scheme and who heard objections was the same
- **Bias** – No need of actual/real likelihood
- **Even reasonable likelihood is a vitiating factor**

# Rule of Fair Hearing



---

- Based on the maxim – *Audi alteram partem* (no man shall be condemned unheard) – hear the other side too
- Rule of fair hearing
- **Ingredients** – notice, right to disclosure of evidence, right to legal representation, right to produce evidence, opportunity to rebut and cross examine, one who decides must hear & reasoned decision, Post decisional hearing

- 
- 
- In (1993) 1 SCC 78, **C.B. Gautam v. Union of India** , the Hon'ble Supreme Court Invoked the same principle and held that even though it was not statutorily required, yet the authority was liable to give notice to the affected parties while purchasing their properties under Section 269-UD of the Income Tax Act, namely, the compulsory purchase of the property. It was observed that though the time frame within which an order for compulsory purchase has to be made is fairly tight one but urgency is not such that it would preclude a reasonable opportunity of being heard.





# Exclusion of Natural Justice

---

- May be express or implied
- **By statutory provisions** – eg: urgent land acquisition
- **By constitutional provisions** – eg: second proviso to Art.311(2)
- In case of legislative acts
- Exclusion in public interest
- In case urgency/necessity
- In case of impracticability
- In case of confidentiality
- In case of academic adjudication etc

# Effect of Breach of Natural Justice



---

- Wade in Administrative Law (1977) says that principles of natural justice operate as implied mandatory requirements, non-observance of which invalidates the exercise of power
- The action – void
- In exceptional cases – post decisional hearing can be given



# Conclusion

---

- Wish you Happy Administration
- Thank You