

Ridge v. Baldwin: Analysing the Magna Carta of Principles of Natural Justice

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Abstract

Ridge v. Baldwin is a landmark authority and has altered the settled position in England, India as well as other nations. It is thus regarded as the Magna Carta of Principles of Natural Justice as it has widened their scope manifold. It thus becomes significant to consider the analysis of this case and comprehend the settled position. It is certainly regarded as one of the most significant judgements when it comes to changing dynamics of Constitutional Interpretation. The paper has attempted to comprehend the principles of natural justice in brief and their historical inception along with the discussion on International Conventions. The position in India has been considered at length along with various landmark cases to substantiate the points post discussion of their historical evolution in India. The significance of the instant case has been discussed post which the case has been analysed. Post analysis of the case, the present position in India has been discussed to comprehend the significance of this case. An in-depth analysis of the above-mentioned theme has been presented along with an organisational conclusion of the subject matter. The case analysis has sought to resort to different reliable sources, both online and offline, inclusive of different online reports, surveys, statistics, studies, books and articles inter alia for the purpose of research, analysis, interpretation and execution of the subject matter and ensures maximum creativity, research work, and personal ideas in the same.

Keywords: Ridge v. Baldwin, Authority, Magna Carta, Natural Justice, Case, Organisational, Research Analysis.

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INTRODUCTION

Natural Justice is another name for common sense justice and is based on the natural sense of man of what is right and what is wrong.

A.K.Sikri J

“Law is not law if it violates the Principles of Natural Justice.”

Lydia Maria Child

Principles of Natural Justice are undoubtedly the principles governed by Natural Law, Justice, Equity and Good conscience. These principles are not manmade but bestowed upon us by the holy almighty and thus they are supreme and cannot be violated by anyone as they are available to each and every individual of the society. In the present world, they have

been fairly accepted by almost every other nation of the world, barring a few. Unlike the past, these principles are now well established and settled and hold huge significance when it comes to any unfair practice or conduct taking place against anyone. These principles have not been lately established but have been present since the Roman time, rather as laid down in various cases, even from the times of Adam and Eve, and thus they hold the highest significance amongst any other law.

These principles today, are no vaguer and more impractical and have been fairly established in various cases so as to protect the natural rights of the individual which are always there with him and can never be taken by any authority. Albeit, these principles are not accepted in such a form presently due to the Doctrine of Legislative Supremacy, which

holds that the Legislature holds absolute supremacy among other bodies and thus it can create exceptions to these principles even. Though, this the author considers is not correct and one of a very serious limitation and a concern for these eternal principles which must possess no exceptions and must be absolute. Though, this may cause irregularity or chaos and even may be impracticable at times, but the laws conferred upon us naturally need to be protected in any circumstances without fail.

These principles are the most needed, especially in today's time when there is gross injustice being caused against individuals due to the unfettered powers being conferred upon various authorities without proper safeguards. These authorities even sometimes unknowingly take away these rights of the individuals and they are left with no choices then, as there may be times when the law of that nation expressly does not provide these rights. It is very much evident from the outflow of thousands of cases involving these principles against the authorities. Therefore, in the wake of this it is highly essential to protect these rights and be held either implied or laid down all around the world as Human Rights are held by every human. When it comes to India, these rights been protected and safeguarded by our Constitution in its Preamble, in Article 14 of the Indian Constitution which assures Right to Equality and also Article 21 which ensures Right to Life and Personal Liberty.

The present case analysis would attempt to comprehend these principles in brief before delving into the case analysis of the magna carta of Natural Justice so that there remains no bafflement as to the case. Before delving into the case, a very prominent question to consider would be to whom these principles apply. Do they apply over all individuals or government authorities, whether they apply to judicial bodies or even the quasi-judicial bodies? Another question would be to understand whether these principles can be applied even when they are not expressly provided by the laws governing the nation, i.e. can they be implied by the Judiciary. The first

question has already been settled up to application of these principles to judicial and quasi-judicial bodies, but the question was not settled with regard to pure administrative bodies. With regard to the later one, the case has laid down the law and more or less reiterated the same.

Therefore, this case has been regarded as a landmark case as it has come out with a new position which has been slowly adopted in India in various authorities. The decision has led to a plethora of cases knocking the doors of the courts. Thus, it is pertinent to consider the case.

Principles of Natural Justice

"The Principles of Natural Justice are easy to proclaim, but their precise extent is far less easy of define". [2] There exists no single definition of the Principles of Natural Justice and it is perhaps only possible to elaborate with some certainty the main fundamental principles of this doctrine. In the past though, Natural justice was used as similar to natural law, but in the present, both are not similar. The term 'Principles of Natural Justice' have been derived from the term 'Jus Natural' borrowed from the Roman Law. The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. [3] These principles are judge made rules and are an epitome of judicial activism, which were made out to prevent accidents incurred by the unfettered powers upon the administrative bodies. These principles are well settled. These principles have enriched law and constitutions the world over.

The principles are those tenets which have been settled around by the Courts just like the base assurance of the privileges of the person against the discretionary system that might be received by a legal, quasi-judicial and administrative authority while making a request influencing those rights. These tenets are expected to keep such expert from doing injustice. It is highly significant to note that

these principles do not supplant the law of the land rather supplement it. 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. Essentially Three Principles are recognised by Natural Justice,

1. Nemo debet esse iudex in propria causa - No man shall be Judge in his own cause.
2. Audi alteram partem - Both sides shall be heard.
3. Speaking orders or reasoned decisions.

The former two have been directly derived from the Roman law but the third principle is a recent development, which has been made out by the Courts themselves to banish arbitrariness. It must, however, be made clear that the rules of natural justice are flexible and are not a straitjacket formula. [4] In exceptional cases not only can they be modified but even excluded altogether. Natural justice is not an unruly horse. If fairness is shown, there can be no complaint of breach of natural justice. [5]

It is a flexible, pragmatic and relative concept, not a rigid, ritualistic or sophisticated abstraction. [6]

Historical Evolution of the Principles of Natural Justice

When the historic document was made at Runnymede in 1215, the first statutory recognition of this Principles of Natural Justice principle found its way into the —Magna Carta. The classic exposition of Sir Edward Coke of natural justice requires to —vocate, interrogate and adjudicate. In the celebrated case of *Cooper v. Wandsworth Board of Works* [7], the principle was thus stated: - —Even God did not pass a sentence upon Adam, before he was called upon to make his defence. “Adam” says God, “where art thou? Hast thou not eaten of the tree whereof I commanded thee that thou shouldest not eat.

Man, in relation to his environment had certain basic problems which were distinct in degree

and dimension. Therefore, it was the need of the our to evolve a systematic pattern of values for universal application throughout. The juristic humanitarianism along with its universal approach led to the development of the principles of natural justice. The earliest expressions can be traced back to philosophical expressions of Roman jurists and signified rules and principles for the rules and principles for the conduct of man, which were independent of enacted laws and could be discovered by the rational intelligence of man and would grow out of and conform to his nature which meant the whole mental, moral and physical constitution of man. [8] The roots can as well be traced from African customary law where there is a saying, ‘Wicked and iniquitous is he who decides a case upon a testimony of only one party to it.’

The rule against bias initially arose from the case of *Dimes v Grand Junction Canal* [9] where Lord Cottenham, who happened to be also a Lord Chancellor, possessed shares in a company involved in litigation. The House of Lords set aside Lord Cottenham’s verdict on that particular case and held that: “No one can suppose that Lord Cottenham could be influenced by the interest that he had in his concern, but it is of the first importance that the maxim that no man is to be a judge in his own cause should be held sacred.”

In the case of *Maclean vs. The Workers Union* [10], it was laid down that, the truth is that justice is a very elaborate conception, the growth of many centuries of civilization; and even now the conception differs widely in countries usually described as civilized.

The Principles

The principles of Natural Justice have been further articulated in the simplest manner as below,

Nemo debet esse iudex in propria causa

This principle is more popularly known as the Doctrine of Bias. [11] That is the authority sitting in judgment should be impartial and act without bias. To instill confidence in the system, justice should not merely be done but seen to be done. This can be related to the

judgement in *R v Sussex Justices, Ex parte McCarthy* [12] which stands as a leading authority on impartiality of judges and laying down and strengthening the doctrine, 'Justice must not only be done, but also should be seem to be done.' The requirement of this principle is that the judge must be impartial and must decide the case objectively on the basis of evidence on record. The dictionary meaning of bias says, anything which tends or may be regarded as tending to cause such a person to decide a case otherwise on evidence must be held to be biased. Every kind of preference is not sufficient to vitiate the administrative action. If it is rational and unaccompanied by considerations of personal interest, pecuniary or it would vitiate a decision. Bias may be broadly further classified as:

1. Personal bias – Personal bias may emerge out of kinship, relationship, proficient grievance or even hostility. Here again probability of predisposition is to be given more assurance than for the Principles of Natural Justice real inclination. —it is hard to demonstrate the perspective of a man. In this way, we need to see whether there is sensible ground for trusting that he was probably going to have been biased. Such equation may develop out of various forms of personal or professional hostility or friendship for that matter, but the list is not exhaustive and would have to be adjudged on case to case basis. [13] Though, in order to challenge an administrative action successfully on the ground of personal bias it is very essential to prove that there exists a reasonable suspicion of bias. It is as well very arduous to enter the mind of a person and prove the same.
2. Pecuniary Bias - It is but obvious that decision of the adjudicator would be affected if he is having pecuniary interest in the subject matter of the proceedings. If a judge would have financial or proprietary interest in the case, or if he is a party to the suit, he is automatically disqualified to act as a judge or even if he does not have any such interest but his conduct or behaviour is sufficient to give rise to such a suspicion the same

consequence shall follow. [14] Thus, even probability of bias is sufficient to invalidate the right to sit in judgment and there is no need to have the proof of actual bias.

3. Official Bias – This kind of bias may emerge in situations where a chairman who articulates, and after that needs to do an official arrangement, is depended with the obligation of hearing complaints from the concerned people with regards to the usage of the strategy. Here the general decide is that the inclination that might be said to probably emerge in light of the fact that the adjudicator has a general enthusiasm for the topic and organization of the arrangement in his official limit, would not work as a preclusion. [15] The problem of departmental bias may as well arise in a different situation when the functions of a judge and prosecutor are combined in the same department.

Other kinds of bias may as well include, subject matter bias, policy notion bias etc.

Audi Alteram Partem

The second standard of natural justice implies to hear the other side. This is fundamental for giving a reasonable hearing and no uncertainty the control against predisposition would additionally be a piece of the strategy. A result has been concluded from the over two guidelines what's more, especially the audi alteram partem manage, specifically *'qui aliquid statuerit parte inaudita alteram actum licet dixerit, haud acuum facerit'* that is, *'he who might choose anything without the opposite side having been heard, in spite of the fact that he may have said what is correct, won't have been what is correct'* or as it were, as it is presently communicated, *'justice ought not exclusively be done yet ought to plainly be believed to be finished'*. Chief Justice Coke, who played a leading role in its exposition and the development of the remedy of mandamus where it had been breached, inferred it from the provision of the Magna Carta that: No free man shall be taken or imprisoned ruined or disseised or outlawed or exiled or in any way ruined, nor will we go or send against him, except by the lawful judgment of his peers or

by the law of the land. It was in *Bagg's Case* (1615) *audi alteram partem* was considered in length the case concerned municipal misbehaviour.

Any wrong order may adversely affect a person, and it is essentially for this reason that a reasonable opportunity may have to be granted before passing an administrative order. [16] This principle is a *sine qua non* of every civilised society. One of the very landmark decision came upon in the case of *R v. Cambridge University* [17] when the Court of the King's bench invalidated the cancellation of the degree of a student without giving him an opportunity of representing himself even if there is no such statutory requirement that both the parties shall be heard, but because this is a natural law right. A very remarkable proposition has been laid down in the case *Cooper v. Wandsworth Distt. Board of Works* [18]

'The laws of God and man both give the party an opportunity to make his defence, if he has any. Even God himself did not pass sentence upon Adam before he called upon him to make his defence. And the same question had been put to Eve also.'

It says that no one should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should appraise the party determinatively the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. [19] Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play.

Reasoned Decisions

The third aspect of natural justice requires speaking orders or reasoned decisions. It is now universally recognized that giving reasons for a certain decision is one of the fundamentals of good administration and a

safeguard against arbitrariness. [20] The refusal to give reasons may excite the suspicion that there are probably no good reasons to support the decision. Hence reasons are useful as they may reveal an error of law, the grounds for an appeal or simply remove what might otherwise be a lingering sense of injustice on the part of the unsuccessful party. When the order to be passed is an appealable order, the requirement of giving reasons would be a real requirement. Thus, reasons are also required to be given when the appellate or revisionary authority affirms the order of the lower authority.

In *Shri Swamiji of Shri Admar Mutt etc. etc. v. The Commissioner, Hindu Religious and Charitable Endowments Dept. and Ors* [21], while giving the majority judgment Chief Justice Y.V. Chandrachud principle in Latin runs as follows: "*Ces-sante Ratione Legis Cessat Ipsa Lex.*" The English version of the said principle given by the Chief Justice is that:

"Reason is the soul of the law, and when the reason of any particular law ceases, so does the Law itself."

It is also pertinent to note that Principles of Natural Justice are not absolute in nature and come with a few exceptions.

International Conventions

Natural Justice is not only limited to national or domestic law but has now been attracted by International Conventions, some have been laid further,

UDHR declares that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 10 within its ambit includes components of fair hearing and also rule against bias, independent and impartial tribunal to hear the party is fundamental requisite of Art. 10. [22]

International Covenant on Civil and Political Right, 1966 U/Art 14, *bury alia*, Guarantees Under this Article we can discover clear wordings requiring recognition of Principles of Natural Justice, [23] as 'reasonable and open hearing by skillful, free and unbiased court' is more extensive and clear than Art. 6 of UDHR.

Under Article 6 of European Convention on Human Rights, 1998 it is proclaimed that, [24]

"In the assurance of his social liberties and commitments or of any criminal allegation against him, everybody is qualified for a reasonable and open hearing inside a sensible time by a free and unbiased council set up by law. Judgment should be articulated freely yet the press and open might be avoided from all or part of the trial in light of a legitimate concern for ethics, open request or national security in a law based society, where the interests of adolescents or the insurance of the private existence of the gatherings so require, or to the degree entirely important in the sentiment of the court in uncommon conditions where attention would preference the interests of equity."

Indian Position

Natural Justice is a piece of our social legacy. It is profoundly established in our law, particularly in the Constitution. It lies at the core of the legal capacity and conditions the activity of a huge cluster of managerial forces influencing the rights, obligations, benefits and invulnerabilities of people and associations. In spite of the fact that now it is trusted that Principles of Natural Justice were systematized in old Rome, standards of common equity are not new India. Standards of reasonable hearing and govern against inclination were very much perceived in antiquated India.

In antiquated India premier obligation of a judge was his uprightness which included unbiasedness and an aggregate nonattendance of predisposition or connection. The idea of respectability was given a wide importance and the legal code of honesty was extremely strict, Brihaspati Says: "A judge ought to

choose cases with no thought of individual pick up or any sort of individual predisposition; and his choice ought to be as per the methodology recommended by the writings. A judge who plays out his legal obligations in this way accomplishes an indistinguishable otherworldly legitimacy from a man playing out a Yajna." [25] Further, the judges and advocates controlling the ruler amid the trial of a case were required to be free and dauntless and keep him from submitting any blunder or bad form. Says Katyayana: "If the ruler needs to cause upon the prosecutors (*vivadinam*) an unlawful or corrupt choice, it is the obligation of the judge (*samya*) to caution the lord and counteract him."

This is the means by which autonomy and unbiasedness of legal is to be kept up by legal, notwithstanding ruler was to hold fast to the guidelines of dharma and he should over the common separations in choosing the cases. The rule that equity isn't just been done however plainly and without a doubt seen to be done is currently thought to be central rule up on which lead against inclination has been based, this standard was additionally taken after even in Epic age, Hon'ble Justice S.S. Dhavan gives following cases to substantiate this, Rama, the King of Ayodhya, was constrained to exile his ruler, whom he cherished and in whose modesty he had finish confidence, just on the grounds that his subjects opposed his having reclaimed a spouse who had put in a year in the place of her abductor. The ruler submitted to the will of individuals however it made him extremely upset. This illustration announces how flawlessly rule of normal equity was rehearsed in old India.

Application in India

Principles of Natural Justice are enshrined in the Indian Constitution most particularly in the Preamble and as well in the Fundamental Rights, most importantly Article 14 of the Indian Constitution. *Audi Alteram partem* follows the following principles:

Right to Notice: Before making any move, it is the privilege of the individual to know the facts. Without knowing the certainties of the

case, nobody can safeguard himself. The privilege to know the certainties of the suit or case occurs toward the beginning of any hearing. Hence, see is an unquestionable requirement to begin a hearing. A notice must contain the time, place and date of hearing, ward under with the case is documented, the charges, and proposed activity against the individual. [26] Every one of these things ought to be incorporated into a notice to make it appropriate and sufficient.

Right to know the evidence against him: In *Dhakeshwari Cotton Mills Ltd vs. Commissioner of Income Tax* [27], it was held that every person has right to know the evidence to be used against him. In the following case, the appellate income tax tribunal did not disclose the information supplied to it by their department.

Right to present case and evidence: It is the right guaranteed to both the parties to represent their case. Where complex legal and technical questions are involved or where the stakes are high oral hearing shall become a part of fair hearing. [28]

Right to rebut evidence: It is not enough that the party should know the adverse material on file but it is necessary that he must have an opportunity to rebut the evidence. [29]

No evidence should be taken at the back of the other party: No evidence should take place at the back of the other party. Means no *ex parte* evidence should be taken by the court. Whatever information is obtained by the administrative authority must be disclosed to the other party and an opportunity to rebut must be provided. [30]

Report of the enquiry should be shown to the other party. [31] These principles hold exceptions like Statutory exclusion, emergency exclusion, public interest, legislative action, academic exclusion etc.

No person shall be a judge in his own cause – The maxim has seen quite a few cases in India. These have been mentioned below in brief. In *A.K. Kraipak v. Union of India* [32] the Apex

Court held that there was a real likelihood of bias for the mere presence of the candidate on the selection board may adversely influence the judgement of the other member and it is not so that it has to be proved that bias has occurred. In *Mohapatra vs. State of Orissa* [33], it was held that when the author of a book was a member of the committee set up for selection of books, and his book was also under consideration by that committee, the possibility of bias could not be ruled out and the selection by that committee cannot be upheld. In *Tata Motor Challenge vs. Government of West Bengal* [34], on the constitutional validity of Singur Land Rehabilitation and Development Act, Justice Saumitra Pal recused himself from the case, citing that he knew some of the people in relation with the case personally.

Ridge v. Baldwin and Natural Justice: Judicial Review of Administrative Action

The Donoghmore Committee in its Report had stated that Principles of Natural Justice are not applicable to Administrative bodies but judicial or quasi-judicial only.

The year 1963 proved to be watershed in the development of concept of natural justice in common law world. With the expansion of the administrative process, the wide abuse of the power of the administrative authorities became evident. [35] *Ridge v. Baldwin* [36], a case regarded as the Magna Carta of Natural Justice holds high interest when it comes to Administrative law was a United Kingdom labour law case which was heard and decided by the House of Lords in the year 1963. The case has been regarded as a landmark case and has been responsible for a change in stance of the Judiciary in UK and particularly India alongside other nations post the judgement in this case.

Judicial review was limited until the instant case as Principles of Natural Justice were merely applicable to judicial and quasi-judicial bodies and not administrative bodies. As principles of natural justice do not arrive from legislative acts or are not provided by the legislature Though, this decision altered this stance which was taken by the Courts till then.

It gave a very wide scope to the judiciary to enter into administrative actions and check if it was violative of principles of natural justice or not. The decision provided that principles of natural justice are applicable on Administrative actions as well and not only judicial or quasi-judicial. If every power affecting some persons rights is called judicial, there is virtually no meaning left for administrative. [37] In India the Courts were hesitant in the immediate post Ridge v. Baldwin period and sometimes they still resort to this dichotomy of classification; otherwise these principles are made applicable to administrative act, which would claim clarity in due course.

Up to 1947 the law in England was that the courts could interfere only with judicial or quasi-judicial decisions and not with administrative decisions. [38] This legal position changed after the famous decision of Lord Greene in *Associated Provincial Picture Houses Ltd. v. Wednesbury* [39] in which it was said:

A person entrusted with discretion must, so to speak, direct himself properly in law. He must call his attention to matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules he may truly be said to be acting unreasonably. Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority.

The above observation incorporates what is frequently called as the *Wednesbury principle*. [40]

Facts of the Case

The Appellant, Mr. Edge, had become the Chief Constable of the County Borough of Brighton in 1956, in the wake of serving in the Brighton Police Force for about thirty-three years. At a gathering of the Watch Committee, the police specialist, on 7th March, 1958, it was settled that he ought to be expelled, and he now keeps up that that determination was void and of no impact since he had no notice of the

grounds on which the Committee proposed to act and no chance to be heard in his own defence.

The Appellant had been captured on 25th October 1957, and thusly attempted on an accuse of contriving of the senior individuals from his power and others to block the course of equity and had been suspended from obligation on 26th October. He was cleared on 28th February, however the other two individuals from the power were indicted and in condemning them the trial Judge, Donovan, J., created an impression which included grave reflections on the Appellant's direct. He was at that point arraigned on a charge of defilement and was on sixth March vindicated, no confirmation having been offered against him.

On this event Donovan, J. put forth a further expression. On the day following that announcement the Watch Committee met also, summarily expelled the Appellant. I should not bargain promote with these issues in light of the fact that my respectable and educated companion, Master Morris of Borth-y-Gest, plans to do as such.

The Appellant's case is that in proceeding under the Act of 1882 the Watch Committee were bound to observe what are commonly called the principles of natural justice. Before attempting to reach any decision, they were bound to inform him of the grounds on which they proposed to act and give him a fair opportunity of being heard in his own defence.

The case was there before the 5-judge bench in the House of Lords before Lords Reid, Evershed, Morris of Borth-y-Gest, Hodson and Devlin.

Issues Involved

On close examination of the case, it appears to the author that broadly, three issues can be extracted out of the case as being involved in it. They are: -

1. Whether Principles of Natural Justice apply for Judicial and Quasi-Judicial actions only as laid down by the Donoughmore Committee and to Brighton Watch Committee in the instant case?

2. Is there scope for extension of these principles, being Universal in nature to Pure Administrative Actions?
3. Whether they would apply when a body is implementing a policy?
4. If at all they can be extended as above mentioned to administrative bodies, can the decision of an authority be held as Void on the ground of the violation of the rule of fair hearing as imbibed in Audi Alteram Partem?
5. Whether Courts can supply the omission of the Legislature in the absence of positive words in the statute requiring a party to be heard?

Arguments of both the Parties

Petitioner's Contentions

It was submitted that the watch committee was expected to proceed under the provisions of the Act. Watch Committee ought to have proceeded in accordance with regulations made under the Police Act, 1919, section 4 (1), which authorised the Secretary of State to make regulations as to, inter alia, the conditions of service of the members of all police forces in England and Wales.

Admittedly the provisions contained under the Act conferred discretion upon the Watch committee or any two justices to take suitable steps against the employee. The provision includes the language like "whom they think" coupled with conditions of "negligence" or "unfitness". Therefore, when the watch committee intended to exercise its discretion to impose punishment of dismissal from service, it was required of it to form an opinion after scrutinising the existence and/or non-existence of factual aspects. This would require the watch committee to comply with the principles of natural justice, because unless appellant is granted reasonable and proper opportunity of telling something against the proposed action, it cannot be said that the committee was acting fairly. The appellant was not even told of the charge. His explanation was also not demanded and he was summarily dismissed from service. The watch committee can think of the situation as existed in the statute only when he is called upon to explain about the alleged misconduct.

The Appellant's case is that in proceeding under the Act of 1882 the Watch Committee were bound to observe what are commonly called the principles of natural justice. Before attempting to reach any decision, they were bound to inform him of the grounds on which they proposed to act and give him a fair opportunity of being heard in his own defence. An officer cannot lawfully be dismissed without first telling him what is alleged against him and hearing his defence or explanation. [41]

The petitioner has cited the Bagg's case [42], though it is more properly deprivation of the privilege of being a burgess of Plymouth. *Rex v. Gaskin* [43], arose out of the dismissal of a Parish Clerk, and Lord Kenyon, C.J. referred to audi alteram partem as one of the first principles of justice. The same was the position in *Reg. v. Smith*. [44]

Respondent's Contentions

The Respondent has maintained its stance that Regulations were duly made, but the Respondents maintain that they do not apply to this case and that the Act is inapplicable to the case of the Appellant.

It is contended that in a master servant relationship there is no need to comply with the above claimed principles. But this kind of case can resemble dismissal from an office where the body employing the man is under some statutory or other restriction as to the kind of contract which it can make with its servants, or the grounds on which it can dismiss them. It has always been held that such an officer has no right to be heard before he is dismissed, and the reason is clear. As the person having the power of dismissal need not have anything against the officer, he need not give any reason. That was stated as long ago as 1670 in *Rex v. Mayor of Stratford* [45] In this case the 1882 Act only permits the Watch Committee to take action on the grounds of negligence or unfitness.

Respondent's argument is mainly based on what has been said in a number of recently decided cases dealing with different subject matter. Those cases deal with decisions by Ministers, officials and bodies of various kinds

which adversely affected property rights or privileges of persons who had had no opportunity or no proper opportunity of presenting their cases before the decisions were given, as in the case of *Cooper v. Wandsworth Board of Works* [46].

Where an owner had failed to give proper notice to the Board, they had under an Act of 1855 authority to demolish any building he had erected and recover the cost from him. This action was brought against the Board because they had used that power without giving the owner an opportunity of being heard. The Board maintained that their discretion to order demolition was not a judicial discretion and that any appeal should have been to the Metropolitan Board of Works. But the Court decided unanimously in favour of the owner. [47]

Judgement of the House of Lords

The Lordships with a majority of 4:1 held that "Every judicial act is subject to the procedure required by natural justice and they then dominated the great majority of administrative acts as judicial for this purpose. Instead of saying, as was in fact the truth, that natural justice must be observed in both judicial and administrative act; the courts stretched the meaning of judicial in an unnatural way. There seem to be nothing but a circular argument; natural justice must be observed when the function is judicial; and the function is called judicial when natural justice ought to be observed. If every power affecting some persons rights is called judicial, there is virtually no meaning left for administrative. The term 'quasi-judicial' accordingly came into vogue, as an epithet for powers which though administrative, were required to be exercised as if they were judicial i.e. in accordance with natural justice. This at least was less of a misnomer than judicial and made it easier for the Court to continue the work of developing their system of fair administrative procedure."

The basic misguided judgment is to see a quasi-judicial function as second rate type of judicial capacity instead of as prevalent type of administrative capacity. Since then the standards of natural justice are connected to

administrative acts. The House of Lords also held that in spite of the fact that there are no positive words in a statute, requiring that the gathering might be heard, yet the equity of customary law will supply the exclusion of the assembly. [48]

The House of Lords set out that It has now been built up that the refinement between the quasi-judicial and administrative capacities isn't significant as obligation to hear is pulled in wherever an activity is probably going to have common outcomes to a man and in this manner choice of the specialist was held void on the ground of the break of govern of reasonable hearing.

Therefore, as the appellant does not seek to be reinstated as Chief Constable: his whole concern is to avoid the serious financial consequences involved in dismissal as against being required or allowed to resign and that must be allowed. House of Lords held that opportunity of hearing had to be given even in administrative proceedings if the administrative order would affect the rights and liabilities of the citizens.

Reasoning by the House of Lords

The cases cited by the House of Lords as well as the petitioner show that those who hold statutory office from which they can be dismissed only for cause, those whose property (this case was essentially about Ridge's pension) has been taken away in certain circumstances, and those whose reputations are being affected by decisions taken by professional or social bodies of which they are members, all those are entitled to the protection of natural. [49]

Lord Evershed further laid down that, So I would hold that the power of dismissal in the 1882 Act could not then have been exercised and cannot now be exercised until the Watch Committee have informed the constable of the grounds on which they propose to proceed and have given him a proper opportunity to present his case in defence. in the event that there was no proposal of having been careless in the release of obligation, a choice to reject on the ground of being "unfit" for the release of

obligation could be accepted without giving an open door to be heard. Plainly it would be attractive and sensible to give such an opportunity despite the fact that the charged unfitness did not include offense.

Here, it is pertinent to consider the opinion of Lord Reid, part of which has been reiterated below and holds a very high value,

‘The principle audi alteram partem goes back many centuries in our law and appears in a multitude of judgments of judges of the highest authority. In modern times opinions have sometimes been expressed to the effect that natural justice is so vague as to be practically meaningless. But I would regard these as tainted by the perennial fallacy that because something cannot be cut and dried or nicely weighed or measured therefore it does not exist. The idea of negligence is equally insusceptible of exact definition, but what a reasonable man would regard as fair procedure in particular circumstances and what he would regard as negligence in particular circumstances are equally capable of serving as tests in law, and natural justice as it has been interpreted in the Courts is much more definite than that. It appears to me that one reason why the authorities on natural justice have been found difficult to reconcile is that insufficient attention has been paid to the great difference between various kinds of cases in which it has been sought to apply the principle.’

The following case cited by Lord Morris holds high significance

In, *Spackman v. Plumstead Board of Works*, [50], referring to another statute Lord Selborne said: "There would be no decision within the meaning of the statute if there were anything of that sort done contrary to the essence of justice ". He applied this language whether the Municipal Corporations Act, 1882, or the Police Regulations are to be considered. In either case the Watch Committee in failing to give a hearing to the Appellant acted without jurisdiction.

Lord Devlin agreeing with the majority judgement and particularly Lord Morris held, I am satisfied that section 191 (4) of the Municipal Corporations Act, 1882, is wide enough to permit the dismissal of a constable on the grounds of unfitness in the sense of inadequacy as well as on the grounds of negligence or misconduct.

Lord Reid's Obiter

Lord Reid took a much more positive view, at least about the general role of senior appellate courts in developing the law. He did this in part by staying and actually making the changes. He spoke about it in a lecture which he gave a few years before he retired: [51]

‘There was a time when it was thought almost indecent to suggest that judges make law - they only declare it. Those with a taste for fairy tales seem to have thought that in some Aladdin's Cave there is hidden the Common Law in all its splendour and that on a judge's appointment there descends on him the magic words Open Sesame. Bad decisions are given when the judge has muddled the password and the wrong door opens. But we do not believe in fairy tales anymore.’

It is the strength of the judgment of Lord Reid that he slices through all of that and gets back to the underlying principles in this area. In doing that he does, incidentally, largely explode the proposition that he states in the middle of his judgment that "do not have a developed system of administrative law". His judgment provides an outstanding example of the interaction of principle, cases and facts. Lord Reid portrays himself willing to innovate or, as he would have it in this case, to renovate by reference to principle. There is, in this judgment, some recognition as well of the limits of the argument by reference to principle.

For this situation Lord Reid sees substantive breaking points on the utilization by the courts of guideline to build up the law. In another driving case he likewise recognized the presence of rather more specialized and utilitarian points of confinement on the utilization of rule.

Judicial Review of Administrative Actions: The Development in India

This perspective of the House of Lords was trailed by the Supreme Court in *State of Orissa v. Dr. Binapani Dei* [52] and *State of Maharashtra v. Jalgaon Municipal Council* [53] wherein it was held that regulatory requests which include common outcomes must be passed reliably with the principles of natural justice. The articulation "common outcomes" implies where rights and liabilities are influenced. In this way, before boycotting a man he should be given a hearing. It might be noticed that regardless of whether the statute does not explicitly require

that chance of hearing must be given before passing a request which influences rights and liabilities, the courts have held that such chance of hearing must be given unless explicitly barred by the statute. [54] Thus, natural justice is a suggested necessity of regulatory choices which influences rights and liabilities.

It has now been established that the distinction between the quasi-judicial and administrative functions is not relevant as duty to hear is attracted wherever an action is likely to have civil consequences to a person as in case of *Mohinder Singh v. Chief Election Commissioner* [55] where it was held that, 'The basic principle is that where a person or public body has the power in reaching a decision to affect the rights of subjects, then that person must comply with what have become known as the rules of natural justice and the real test is the effect of the decision on the right of the person affected.'

The dividing line between administrative power and quasi-judicial power is quite thin and is being gradually obliterated and the horizon of the natural justice is gradually expanding and now the principles of natural justice has been extended even to pure administrative function as in cases of *A.K. Kraipak v. Union of India* and *Maneka Gandhi v. Union of India*.

A similar situation like *Ridge v. Baldwin* arose in the case of *State Bank of Patiala v.*

S.K.Sharma [56] where it was held by the Apex Court that,

'In the case of violation of a procedural provision, the position is this: Procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed.- Except cases falling under 'no notice', 'no opportunity' and 'no hearing' categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice. Procedural lapses can be overlooked if there is a substantial compliance and no prejudice is caused due to the non-compliance.

Further the Court in *G.J. Kanga and Anr. vs S.S. Basha* [57] as well held that the judgement of *Ridge v. Baldwin* is completely applicable in India. Thus, in the case the authorities were ordered to comply with the principles of natural justice.

CONCLUSION

The above-mentioned discussion has assisted us in a lot of understanding regarding the Principles of Natural Justice what are they, how did they come into existence and what is there actual source, how did they come into India and how they have been construed in India. Furthermore, the discussion on the case *Ridge v. Baldwin* has been taken for consideration at length by completely comprehending the facts of the case, judgement, principles laid down in the case and what were their implications in India.

The discussion commenced with the basic understanding of the Principles of Natural Justice and all attempts have been done to define them, as there exists no single capable definition of the same. The two principles i.e. No one shall be a judge in his own case and Hear the other side along with a lately added principle of Reasoned decisions/ Speaking order have been explained at length doing complete justice with case laws. These principles have been made to curb the arbitrariness that could have been imbibed in

any body due to the powers conferred to it. As Dicey says, 'Wherever **there is discretion, there lies scope for arbitrariness.**' And thus, these principles to ostracize the same by keeping these bodies within limits with the help of these universal principles. Further the case analysis delved into the historical evolution of these principles and how they were construed in the case *Cooper v. Wandsworth Board of Works* by discussing about Adam, Eve and God. Certainly, these principles have evolved to a very high extent, according to the author's limited knowledge no such law has been construed from the past i.e. the era of Adam and Eve.

The principles have been then discussed at length commencing from *Nemo debet esse judex in propria causa* and classifying broadly into pecuniary, official and personal bias *inter alia* along with a few landmark cases. Later, *Audi Alteram Partem* have been discussed post which reasoned decisions has been explained in brief. To have further clarity and the comprehend the scope of these principles Internationally, the various International Conventions and their involvement in these principles' evolution has been discussed that of - International Covenant on Civil and Political Right, Universal Declaration on Human Rights and European Convention on Human Rights.

The Indian position regarding these principles has been further discussed beginning from the historical evolution in India which has been dealt at length. Further the principles have been explained with landmark cases and the later principle has been discussed with its constituting elements and a few exceptions with their landmark cases. In due course, a discussion has been considered on the relevance of *Ridge v. Baldwin* and what value does it holds in Administrative law. Various reasons have been dealt with which have contributed to make it a landmark decision. The analysis progresses with the facts of the case, issues raised in the case, arguments of both the parties and finally with the decision of the House of Lords and the Reasoning given by it. The House of Lords held that Baldwin's committee had violated the doctrine of natural justice, overturning the principle

outlined by the Donoughmore Committee thirty years before that the doctrine of natural justice could not be applied to administrative decisions. It being the first time that a case has applied the doctrine to a non-judicial action. Post the same, Lord Reid's view which holds maximum significance in the judgement has been discussed comprehensively. Finally, the development of this decision has been witnessed in India and the cases which have followed this case have been dealt with.

The case review has gone through a detailed analysis of the Principles of Natural Justice with a comprehensive understanding of the case law *Ridge v. Baldwin*. The landmark judgement has been highly acclaimed as it has led to widening of the scope of the Principles of Natural Justice and Administrative law as a whole. Administrative law, being an uncodified law is open to interpretation and has a few basic principles, which if widened, lead to the enlargement of the scope of the whole subject, a perfect example being this case of *Ridge v. Baldwin*. The case holds a very significant value even in the present day and is a good law and shall remain so due to the ratio laid down in it. Earlier, merely quasi-judicial and judicial acts were considered to be compliable with the principles of natural justice but today due to this landmark decision of the House of Lords even pure administrative actions would have to comply with the principles of natural justice if they decide the civil rights and liabilities of a person. The case has also laid the principle that even if although there are no positive words in a statute, requiring that the party shall be heard, yet the justice of common law will supply the omission of the legislature.

The case has widened the scope of Administrative law and perhaps it would not be erroneous to claim that it has given the widest scope to administrative law. This is so because in the present time it is the utmost requirement to apply natural justice principles to administrative actions because of their unfettered powers and discretion.

As they say, '**Power corrupts, and absolute power corrupts absolutely**' and therefore it is a must that there must be a safeguard to

protect the ends of justice for people against the discretionary powers and acts of these bodies.

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