

PRINCIPLES OF NATURAL JUSTICE (PNJ): ANALYZING THE CASE OF UNION OF INDIA V.
SANJAY JETHI, (2013) 16 SCC 116 (INDIA)

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Abstract:

The ideology of fairness and the essence of natural law under the Justice System is not a contemporary theme. It dates back to ancient times within the justice scheme and has developed its structural stance as an integral constituent and embodiment in the legal world. Undoubtedly, the principles of natural justice play an integral role in the decision-making and procedure of law. Yet, it remains one of the most important components in protecting the rights and liberties of individuals. The research paper strives to unearth the noteworthiness of these principles as a medium and spirit of judging a case for securing just and fair proceedings. The authorities must grapple with all facts in question and the absence of any prejudice, provide all parties with equal chance to prove themselves before a competent court or tribunal.

*This phrase **natural justice** originates out of a roman terminology Jus Naturale, meaning the PNJ, legal equity, and good conscience. Particularly, the doctrine hasn't emerged out of higher powers, however, they are results of immediate necessity for codified judicial mindset paired with yielding fairness in regulations. The system needs to keep in mind that the norms should not infringe on the basic rights and liberties of the parties or any other individual.*

This study is a detailed analysis using PNJ in essence as given under administrative law. As this topic unveils chapter-wise, it will attempt to brief the readers about how the doctrine originated over the years.

Keywords: Principles of natural justice, the justice system, jus naturale, decision-making, fairness

1. Introduction to the Concept of PNJ

"Laws are not laws if they violate the principles of natural justice, equity, and ethics".

In simple words, it safeguards people from judicial and administrative scrutiny, action, or orders, that cause a miscarriage of justiceⁱ and affects the substantive rights of citizens.ⁱⁱ

The court, in a previous case, observedⁱⁱⁱ that persons on duty to make decisions should necessarily act judicially.

Natural justice remains a permeating constituent of secularism whereby religion enhances legislation and administrative law. But ancient India also visited the idea of fairness to be persuasion of life.^{iv} The paper will touch on the limits of how the *PNJ* is embedded in administrative law. A prominent chapter of the research paper will analyze the case, *Union of India^v v. Sanjay Jethi^{vi}* aided with the facts and judgment of the case. The judgment enumerates the essence of a full opportunity of hearing and the effect of infringement of natural justice. That means an individual must be given a flexible and realistic opportunity of hearing incoherence to facts based on the Army Rules^{vii}. Besides, it is pivotal to note that *PNJ* truly inaugurates itself into administration inquiries and proceedings also. The case also apprehends the concept of free from bias. Since there is a higher chance of prejudice, justice must be given in absence of any doubt and dubious conclusions.^{viii}

According to a far-proclaimed phrase as observed by the bench in the case of *Abbott v. Sullivan^{ix}*, it is clear that the principles of natural law and fairness seem simpler on paper, and difficult to define its practical expression. The concept is historically conjoined with the essence of specific rules and doctrines that emphasize the administrative duties as well as constitutional performance as concerning their duties for its citizens. Natural laws and fairness have been almost indistinguishable. However, in recent times, with overflowing precedents and laws utilizing the basic elements of natural justice, lawmakers were compelled to identify the separate meaning of both phrases.^x

These principles come into force when individuals are exploited for their civil rights by administration bodies. Individuals are thereafter safeguarded from and against any illegality exercised by an authority in power. Lord Esher expressed the concept's meaning and has correctly stated that these principles are the truest essence of fairness and unjustness. In determining the organization of the doctrine, it must be noted that these principles are not solid phrases; instead, they have been transforming from being amorphous to being identified as a mandatory supplement to a robust governmental mechanism.

The constitution of India imbibes the essence of principles of natural justice under Article 311^{xi} as well as within the ambit of Articles 14^{xii} and 21^{xiii}. All actions of the administrative authorities should be assessed based on the basics of environmental ethics and human interests i.e. reasoning steered by the interests of the citizens.^{xiv}

2. Origin: From Divinity to Due Process

For ages, the rules under this concept have been evolving with the global and civil transformation to the extent that it has always existed in society. Individuals have always resorted to a higher authority than what rests within themselves when the primary institution of power is used excessively. In this context, the highest authority will always be the divine power i.e. natural law under which all other temporal and legislative duties and laws would work.

Principles of natural justice have been originated and molded through ages of deliberation and examination based on the changing times. Greek and Roman law acquainted themselves with the doctrine. In English Law, Roman Jurists laid down the doctrine of *jus naturale* that is famously called the Common Law. In the same way, Dharma prevailed in India and *Due Process* in the United States.

As identified in various prominent doctrines, the Magna Carta of 1215 is recognized to have shaped the premature understanding of these principles in law and to provide fairness in the dispersing of rights to citizens. In the Reformation era, the theme of secularism and medieval mindset on common and societal good somewhere overshadowed the importance of personal well-being and justice. Therefore, the laws began concentrating more upon strategically dealing with separate individual matters and his/her specific issues. At the same time the concept of 'enlightenment' was necessitated to aid the new system. Hence, in the middle ages, opinionated decisions were taken to examine individual problems based on individual sufferings, especially during reformation to acknowledge the power of divine law.

Today, in India, there does not exist any particular law that identifies the limits of the administrative bodies in utilizing their powers. Nevertheless, the country's laws are ruptured by a web of different laws prescribing different procedures that must be constitutionally valid. Some of these bodies may have the free will to comply with the rules provided in the laws, but without any limitations or exceptions. This gives rise to situations where these authorities might overuse or even misuse their power. In this scenario, courts step in to order judgments based on principles of **fairness and due procedure of law** to allot aggrieved party justice. Hence, when courts resort to examining cases like these, it identifies the minimum fairness policy^{xv} which is known as principles of natural justice.

3. Basic Elements Discussed in UOI V. Sanjai Jethi

Determining when PNJ comes into the picture

The research paper predominantly examines the case of *Union of India v. Sanjay Jethi* in further chapters. However, to gain preliminary knowledge as highlighted by the court in the judgment of the case, it is important to understand the element of the concept at hand.

For years of evolution, the Anglo-American lawmakers and the bench have been using these principles. Two vital sub-principles examine the obscurity in determining whether justice is served:

I. Audi Alteram Partem: right to be heard for a just hearing: The right to be heard is a universal and fundamental right vested with all individuals. In referring to the case of *Durayappah v. Fernando*^{xvi}, it may be highlighted that the PNJ embedded in the doctrine of Audi alterum partem may be satisfied to be enforced provided:

- i. The nature of the interests that are put under jeopardy due to misuse of administrative power,
- ii. Facts and background of the case whereby such power or duty is being conducted.
- iii. And, the punishment as imposed against a party that calls for an examination of PNJ.^{xvii}

Within the meaning and definition of this doctrine and incoherence to the case being dealt with in this paper, the right to receive notice is a right offered to the parties mandatorily. It indeed constitutes a reasonable and prudent part of securing justice. The most prominent concept to be understood as a part of this right is the right to know and examine the evidence against oneself. In the case of *Dhakeswari Cotton Mills Ltd. v. CIT*,^{xviii} a certain Tax Tribunal had neglected to supply records to the party whereby the SC observed that an individual has to necessarily be allowed to inspect records^{xix} about his/her case. The basic ideology is that evidence gathered against the person must be brought to the notice of that person. If any evidence or record is considered by concealing it from that person, it will amount to a miscarriage of justice.^{xx} The report of an inquiry committee must be presented to the said person in question^{xxi}. The SC has also observed in various judgments observed that the “prejudice doctrine” that compels the complainant to show that there has been a miscarriage of justice. there remain some exceptional situations under which it is rarely appropriate to substitute or withdraw an unbiased judge. In certain cases, the PNJ must, by definition, give power. Else the judicial authority will crumble since there is no other way to evaluate. While it has not yet been explicitly accepted by the Indian courts, the doctrine of necessity has been indirectly enforced in many instances.^{xxii}

II. Nemo Judex Causa Sua i.e. an individual must not be made to judge regarding his own cause i.e. **rule against bias.**

A bias is a tendency and a prejudged conception that has no construction of fairness and usually an inclination towards self-interest. It gives assurance that the higher power i.e. the bench or the judge must be fair and not partial in assessing only one side of the case in his favor. In the case of *Crawford Bayley & Co. v. Union of India*^{xxiii}, the SC observed that this phrase may be effectuated when an officer or an administrative office on duty acts in the cause to receive personal gains. By personal connections and interests, the case may favor one side leading to exploitation of the fundamental rights as given in the natural law and constitution of India. A bias may vitiate the trial as a whole, nevertheless, such specific biases may be divided based upon the legalities or policies or the interests vested with the judge or an authority himself to be used beyond the limits of natural law. These may be divided as follows:

i. Personal Bias

When one of the parties to a case is found to be directly or indirectly associated with the authority judging the matter, it will lead to a clear case of bias due to the obvious state of oblivion and unjustness to provide the conclusion. These instances, emerge out of confidential and accomplished relationships.^{xxiv} The contention of personal bias is wholly dependent upon reasonableness in the arguments. Predominantly, the above kinds of relations must necessarily be rejected and be highlighted before judging a case. In the case of *A.K Kraipak v. UOI*^{xxv}, the Supreme Court^{xxvi} observed that in the case of selections a candidate was also a part of the selection board which is why the concluding report from that selection was discarded.

In case a judge has an ulterior motive or conflicting stance against a certain party, then it will be a case of personal bias. In *Cottle v. Cottle*^{xxvii}, one of the parties' mother was friends with the higher magistrate authority and hence this authority on duty was disbarred from participating in her administrative duties.^{xxviii}

ii. Pecuniary Bias

A jurisprudential directive is conclusive yet authoritative at that premise that regulatory actions will exploit any monetary gain, however, limited it might be. Dismissal shall not be prevented through the refusal of the biased representative to intervene in the hearings, provided he was present at the time the decision was made.

Hence, when the judge, the adjudicating authority, or anyone on the bench has a pecuniary i.e. money-minded and economical interest with the conclusion of the case, it would be a pecuniary bias. It is not appropriate to display direct bias. It is satisfactory to show the presence of economic involvement. In *Dimes v. Grand Junction Canal Proprietors* (1852), since the authority had a financial interest with the canal company, a vote by the Lord Chancellor had been dismissed for bias. These were highlighted as the discovery of bias. There was no conclusion that perhaps the Lord Chancellor was within that faintest extent inspired more by the benefit vested with the Lord Chancellor.

During the era of a free market system, whereby stock participation is indeed very widespread, the likelihood of that kind of bias seems to be very high. If the decision-making official escapes from where he has a little or significant stake and interest that represents little or general fiscal interest, it won't serve the purpose to satisfy the public. In an important case of *Jeejeebhoy v Collector*^{xxix}, the constitution of the bench was in question and later it was reconsidered and changed because one of the members was found to have a monetary interest wherein he was a member of a party's cooperation organization that gained the land and its benefits.

iii. Subject matter bias

In simple words, this kind of bias is the basis of the issues at hand. When an individual is vested with the duty to judge a case and has a direct interest in the subject matter of the matter and issues highlighted, it would indeed be a case of bias^{xxx}. For disqualification on this ground, the judge should be intimately and explicitly connected to the matters in question. Presently, the issue is whether it is still possible to apply that concept to administrative judicial review. In furtherance, bias based on the subject matter may be divided into:

- a. Departmental or official bias: At any authoritative process or trial, any kind of bias that may arise would usually be a departmental one. In such a situation, the authority would have an interest in affecting the 'policy' decisions of the conclusions in the case. Such a bias is absolutely 'inherent' in any administrative proceedings.
- b. Prejudged issue bias: It may emerge out when the authority may have specific incline thought based on a policy matter based on the case in hand. Such an inference may not seem to be prejudicial. However, if the reasonableness of bias is determined in the interest of the judge in the case, it indeed would be a prejudged notion.

iv. Obstinacy bias

A new form of prejudice resulting from extremely irrational obstinacy has been identified by the SC. Generally, it infers irrational and steadfast determination, and the determination of the decision-making officer does not accept a no as a response. In a case wherein a Calcutta High Court judge affirmed his original decision of appeal while seated on the bench, this latest form of prejudice was noticed.

4. Case Analysis

In the previous chapters, the major elements of the case of UOI v. Sanjay Jethi were underlined and discussed. In this segment, the research will incline majorly towards the analysis of this case in hand and examine and assess the judgment based on the major elements discussed priorly.

In a brief overview, in this case, the SC assessed and examined the instances where the reasonableness of bias may be applied to infer bias. The test of bias, according to the court, is basically when a prudent-minded person with acknowledgment of all facts of the case, may within such facts feel intimidated by the presence of a bias or interest. In the purview of this case, the court observed that, in situations where several persons had to be imposed with a fine, a COI^{xxxi} shall assess all factors regarding the contribution of all accused to the said offense. There are high possibilities that during the COI investigation, a person's military honor and integrity may be put at stake as regarding the Army Laws.

The deciding authority must not reject his participation in the inquiry by COI just because it didn't pertain to his part of the matter. The individual's character was still in jeopardy and hence it was ordered that since there is no specific plea disregarding his contention, there should be no bias in not including him therein.

In affirming that the reputation of such an individual is not influenced by the processes of the COI, he/she has to be given all opportunities to be a participant in the inquiry and examination and cross-examination.

i. Background

An officer in the said case put forth allegations against the unsystematic methodology adopted to hire the Civil Hired Transport that was basically under the authority of Respondent 1(R1) who held the highest office as a Colonel in the Army. In furtherance of this complaint, the General Officer C-i-C of Pune enacted the said proceedings against the R1 and thereby constructing a Board to determine the veracity of the inference drawn down. After a court of inquiry was set up and recommendations were laid down, R1 preferred to question the irregularities in the said proceedings based on principles of natural justice.

ii. Grant of Fair Opportunity to R1

Predominantly, the respondent contended that after completion of the inquiry, COI neglected to submit certain records to the respondent in explaining the necessity to save the data to justify the respondent's culpability. He also stated that a certain officer has extended his term of office even though he exhausted the same. The court, therefore, observed that the fact that records were not disclosed to the party, is clear exploitation of Rule 180^{xxxii} of the Armed Forces Rules, 1954. Hence, if the authorities continued to conclude without consideration of the contentions thus made.

Once the respondent received the said records, he requested for cross-examination of specific technical members. Acting by Rule 180 of the Rules, the court denied it, in stating that only witnesses could be cross-examined by him. R1 thus highlighted the irony in the statement of the Board and its constitution by contending before the tribunal^{xxxiii} that two of the members of the Additional COI were themselves, technical members, with specific responsibilities in pursuit of documentation of the report. Thereby, the drafters of the COI report had also become its members.

In conclusion to the above contentions, the tribunal clarified its stance and stated that a fresh COI with a renewed constitution and structuring must be created.

iii. Integral Issues at Hand

1. Whether the decision of the tribunal to hold the constitution of COI in conflict with Rule 180 was justified?
2. Whether cross-examination of the said technical and the presiding officer were indeed required as per rule 180^{xxxiv}?
3. Whether the PNJ has been violated during the entire course of the proceedings with the COI and the respondent?

iv. 'Reasonableness': The Most Important Element to Imply Bias

To magnify the notion of natural justice in all its facets, the tribunal, in this case, referred to various similar case laws. In *Major General Inder Jit Kumar v. Union of India and Ors*^{xxxv}, the bench reiterated the purpose of the COI and its constitution. It extracted certain important nuances of the judgment to effectuate it in the case at hand and observed that any individual whose reputation as a part of the Army is put to stake then the

COI has to give him all resources as an informant about the allegations along with records in the form of a notice.

In answering the issues at hand, it is important to know the essence of Rule 180. The court, in this case, clarified the same and stated that **Rule 180** on which the present controversy revolves deals with the procedure when the character of the person subject to the Act is involved. It reads as follows:

“.....full opportunity must be afforded to such person of being present throughout the inquiry and of making any statement, and of giving any evidence he may wish to make or give, and of cross-examining any witness whose evidence in his opinion, affects his character or military reputation and producing any witnesses in defense of his character or military reputation.”.

Firstly, all contentions were appraised and appreciated as probable material evidence by the tribunal and it stated that the concept of bias emerges out because the two members of Additional COI having a role as Technical members perhaps own the power to deceive and aid their records. This act is clearly against Rule 180. While examining the stance of the technical officers the court referred to the case of *Delhi Financial Corpn. and Anr. v. Rajiv Anand and Ors.*^{xxxvi} In this case, it was held that to effectuate the principle of *Nemo judex causa sua*, two things must be determined; **firstly**, whether the individual so concerned has a personal or monetary interest or has acted on duty for a matter he was already concerned with. **Secondly**, any person holding an office of a statute can be appointed as an authority. This person may not be held biased merely because he holds such a position inhere to the matter in court. The contentions must determine that the authority shows interest in the conclusion and procedure of the case thus involving a subject-matter bias.

v. The Substantive Test

In generic terms, the court resorted to applying the test in determining whether the contentions of bias were substantive i.e. materially efficient to determine irregularities of administration. The court about another prominent case held that when even one of the administrative bodies has an interest materially and substantially connected to the subject issue or matter of the case, the conclusion must be discarded as biased and the said officer be removed from that position.

It is to be noted that, the court in any case of ambiguity of administrative power, judges a matter of bias with a wider scope and envision the substantial facts and circumstances i.e. the logic and not the technical aspects. In giving its final words, the court observed as follows:

“The Additional COI shall keep that in view so that there is no procrastination of the proceedings at the behest of the delinquent officer, for natural justice has also its limitations. It can be allowed to become an unruly horse.”

There have been several judgments delivered by the tribunals regarding the Army Rules and laws about the character of the parties to a case. The right against bias is a dynamic concept that subjects the court to examine and re-examine the inquiry report of any committee. In a 1997 judgment^{xxxvii} the SC stated that as per the specific rules^{xxxviii} if an inquiry is influenced by bias in prudent circumstances where it affects the reputation of that army personnel, the individual must necessarily be provided with the opportunity to assess all facets and records of the case and cross-examine the witnesses during the inquiry.

In another previous case^{xxxix}, the HC has stated that in case of a matter subject to the Army Laws and where inquiry is being set up against a person having considerable character and reputation of his position, the committee thus set up must widen its scope beyond the administrative law to the basic fundamental principles enshrined within the Constitution of India and acknowledge the PNJ in their complete essence to avoid any miscarriage of justice.

vi. From a Landmark Judgment to a Reliable Precedent

The case^{xl} in hand has indeed sparked confidence in courts to resort to considering the importance of the PNJ in the further precedents. A very important case of *Ex-subedar S.K Dhindwal v. UOI & Ors*^{xli} referred to the **Sanjai Jethi case** by further observing that the basic notion of the PNJ is embedded within any administrative proceeding, inquiries, or examination to avoid unfair or unethical practices. The authority vested with the duty of adjudging the case or a facet of the case must not be biased over the subject matter or have pecuniary interests or other interests in the case. ‘ Free from bias ’ means that the decision must be rendered with full transparency and unconsciousness and without the involvement of any person who decides in favor of his greed and interest.

vii. Criticism of the Doctrine

In various cases as well as several jurists have found loopholes in the PNJ doctrine, calling it similar to a maze or an unmaintained horse field. However, many forget that the doctrine has the power to change the course of emergencies and bring control over the problems. According to **Lord Denning**, he believed that a prudent

person riding over an unmaintained horse field may be considered and amended. Stepping stones may indeed be jumped over from rigid circumstances. They are flexible principles.

6. Findings/Conclusion/Suggestions

The decision in the Sanjai Jethi case was wholly dependent on the fact that irregularities in the administrative proceedings by the COI would indeed harm the reputation and character of the respondent's position in the Army thereby infringing the PNJ. In the landmark case of *Maneka Gandhi v. Union of India*^{xliii}, the court has highlighted that the PNJ is a burrow to safeguarding and improving the essence of a fair and prudent exercise of power and ensure that justice is served to everybody. Lord Morris has correctly stated as follows:

“The principle and procedures are to be applied which, in any particular situation or set of circumstances, are right and just and fair. Natural justice, it has been said, is only fair play in action”. In case authority is vested with the power^{xliiii} to divest an individual from his/her fundamental rights, he diverts from the two major doctrines under PNJ as discussed in this paper.

Following the analysis of the standards of PNJ, it can be inferred that about cases of administrative processes, both Indian and English courts have created separate exceptions to the criteria and mechanism of the Standards of Moral Fairness. Such deviations, nevertheless, are indeed anecdotal but not factual, with all exclusions permissible or adjudicated.

Although, only by reviewing the evidence including conditions of each situation, the contentions based upon PNJ may be enforced. The above principles could be followed or revised mostly by procedural rules and the legislation of the Tribunal, that might determine a specific subject. Any decision to be taken by the authorities should be a decision considered b based on the existing conditions; exceptions must always be monitored by the judiciary. Those instances whereby PNJ was omitted by default show that perhaps the principle was embraced by the courts even when the law did not expressly mention the same.

7. In the Contemporary Scenario

The Punjab and Haryana HC clarified in August 2020, referring to a specific dispute, that the standards of natural justice and PNJ must be observed before adopting administrative or judicial measures concerning an individual's rights.

In another instance, the facts and circumstances that took place inside and beyond the SC walls were unparalleled in the latest contempt case against Prashant Bhushan. The rule of natural justice that no man should be a judge in his case had been overlooked. This concept was therefore undermined under **section 15^{xli} of the Contempt of Courts Act, 1971**, allowing suo motu violation litigation, since the SC itself is the claimant, the defendant, and the judge throughout the matter. Therefore, it is never easy to exclude the PNJ until it becomes inevitable because the judiciary operates within the premise of what seeks to conform to the standards of natural law and fairness. Those standards should not supersede, nor accompany, the law of the lands. It is also important to read, understand, and enforce all legal frameworks to be compliant with the PNJ.

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xxxv Major General Inder Jit Kumar v. Union of India and Ors, (1997) 9 SCC 1.

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