Constitutional Law and Public Administration in India

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Administrative Tribunals – II

There are a few cases that the courts have analyzed. There are the case laws as the judiciary has evolved from time and again. The first such is *S.P. Sampath Kumar v. Union of India*, a case in 1987. In this particular case, the court held that it is Constitutionally valid for parliament to create an alternate institution to high courts with jurisdiction over certain matters that are provided; that the alternate body also has the same efficacy as that of the High court. In yet another case, the Supreme Court held that the appointments should be made by the Central Government after consultation of the Chief Justice of India or by a High-Power Selection Committee headed by a CJI or from the current judge from the current high court. This is the manner in which the tribunal system was anticipated; was envisioned. There are also various Acts and kinds of tribunals that came over a period of time.

And there are case laws that deal with an alternate institution to the already existing and robust judiciary that we have in India. The next case law is *L. Chandra Kumar v. Union of India* and others 1997. In this case, a question of law arose; whether a tribunal can substitute a high court and it was held that a tribunal would substitute a high court as an alternative institution mechanism for judicial review. It is primarily to lessen the burden of the high courts; and therefore, they must also be accorded with the status of a high court but, they will not have the various other jurisdictions or the other work that a high court generally has, and such tribunals will act as a court of first instance in respect of areas of law for which they have been constituted.

For instance, there is a National Green Tribunal where any environmental civil matter will first go, before the litigants approach the Supreme Court under Article 32 or 136 or the high court under Article 226 or 227 and the decision that these tribunals will be giving will be subject to scrutiny by a high court within whose jurisdiction the tribunal falls. So, it cannot be said that these tribunals are completely independent, they do have a check and balance within them as well. High courts exist for that matter. Therefore, it is said every court that is there in a particular state, will be subordinate to the high court of that particular state. For a tribunal substituting a high court any weightage in favour of non-judicial

members would render the tribunal less effective and potent than the high court. Therefore, the way the non-judicial members are chosen, needs to be done in a very wise and systematic manner.

People with judicial experience should only be appointed to the tribunals though not necessarily with a lot of experience but people who know how things work in the civil side or on the criminal side. Most tribunals generally handle civil matters. For the Motor Vehicles Act there is a Motor Vehicles Claims Tribunal; there is a Railways Tribunal as well. Income tax, customs, service matters etc. are the boundaries in which they function. To ensure uniformity in administration a separate independent mechanism should be set up to manage the appointment and administration of tribunals and it was in this judgment in the year 1997, the same was held. Until such an independent agency is set up, all tribunals were to function under the administration of a single ministry which is or was the Ministry of Law.

There is a recent judgment of 2010 which is *Union of India v. R. Gandhi*. In this case the court held that parliament may create an alternate mechanism namely tribunals. What was held in Sampath Kumar's case was on subject matters in the union list. So, this is the difference in the 1986 judgment and 2010 judgment. It also went ahead and said that there is no need of a technical member if jurisdiction of courts is transferred to the tribunals solely to achieve expeditious disposal of matters; in any bench technical members must not outnumber judicial members. This is one of the most important proponents that should be kept in mind, that, it is an adjudicative body, and an adjudicative body must have a greater number of judicial members rather than technical members because having judicial members will apply the. There the principles of natural justice will be applied and eventually justice will be done. The third point in this case was that only a secretary level officer with specialized knowledge and skills should be appointed as technical members. A person at the secretary level must ideally be a very senior bureaucrat with technical expertise within the consumer arena or the environmental arena or income tax; and they should have the requisite skills along with the experience. In the case of *Madras Bar Association v. Union of India* and another in 2014, it was explicitly stated that the group A or equivalent rank officers with experience in Indian company law service, specifically in the legal branch and the Indian legal service grade one, cannot be considered for appointment as judicial members because such officers do not come from the judiciary they pass the administrative exams and such officers may be considered for appointment only as technical members. The difference between a judicial member and a technical member may be a very thin silver lining. The fact that technical members do come from these arenas and judicial members are people who are lawyers and eventually going to become judges is an appreciable fact. Also, the administrative support for all these tribunals should come from the Ministry of Law and Justice; and they cannot be appointed through regular appointments, but they should be computed and should come from the Ministry.

Neither the tribunals nor the members must seek or be provided with facilities from the respective parent ministry or concerned department. In the case of *Rojer Mathew v. South Indian Bank Limited*, that the judicial functions cannot be performed by technical members was clearly and explicitly mentioned. Technical members are only for the technical know-how, and they should not interfere with the judicial working of the tribunal. Provisions to allow removal of judges by the executive is completely unConstitutional otherwise the executive will have a say on the appointments of judges and technical members in the tribunal which would again dilute their effectiveness. There will be a uniform age of retirement for all members as it is there in every other service. Short tenures lead to control of executives over tribunals causing adverse effects on the independence of judiciary.

And lastly, the impact of amalgamation of tribunals should be analyzed with judicial impact assessment and therefore there are various tribunals for various kinds of matters and services. Over the years the tribunal system has been made a robust functioning system not only by the legislative or executive work, but also by the judiciary taking proactive steps in ensuring that there is a timely message, a timely judgment, so on and so forth. In 2020 when the judgment of the *Madras Bar Association v. the Union of India* was delivered, it stated that national tribunal commissions should be set up to supervise appointments as well as functioning and administration of tribunals. Members will have a term of five years instead of four years and they will be allowed to hold office till they reach the age of 67 instead of 65.

One of the possible reasons for doing this was this was done if we can reason it well it is because you need a proper tenurial office. Many members who come from judicial or the technical side may be well equipped on the knowledge side but to get acquainted with the procedure, and kind of cases that come will take a minimum of two to three years and only by this time a member acquires the skill and aptitude and knowledge that is needed to deliver a particular order that needs to be secured. There is another case of the *Madras Bar Association v. the Union of India*, of the year 2021. In this case, the court struck down privations to the four-year tenure and minimum age requirement of 50 years for members. From the year 1986 to the year 2021 the judiciary has been proactively instituting various changes time and again to ensure the tribunal system reaches its apex point.

It delivers justice to people and welfare for the people which is one of the most important things in a tribunal setup and a robust judiciary along with an executive and a legislature. The judiciary, also has taken the steps way beyond just being a mere guardian and has ensured that it gives the tribunals equal teeth as against mere teeth, that it can bite and be effective in the judgments and order that they eventually deliver. As to finality of orders of tribunals, it is important to understand the clauses of finality of orders of tribunals. It is also relevant why these decisions are binding? There is a finality clause that is provided in the statute to declare that a decision by an agency is final provided that bars an appeal to the court and there is also the doctrine of *res judicata* that says a thing or matter, or

basically, a case that has been finally decided on its merits, cannot be litigated again by the same parties before some other court because this would lead into multiplicity of litigation and proceedings. The doctrine of *res judicata* is based on the three Latin maxims. First, *nemo debet bis vexari pro(una et) eadem causa* which means no man should be vexed twice for the same cause as, it's not only a waste of judicial time but it's also a violation of the rights of individuals. Next, *interest rei publicae ut sit finis litium.* It is in the interest of the state that there should be an end to litigation because litigation, if it runs long, does not bring a mere benefit to either party. There is a loss of the government exchequer and the person who is bearing the laws is also at a loss. And the third, *re judicata pro veritate accipitur,* which means a judicial decision must be accepted as correct. A person can definitely appeal to the higher courts if he is unsatisfied with the lower court's verdict, but these are the three Latin maxims on which the wider doctrine of rest, Judy Carter, is actually based. Section 11 of Code of Civil Procedure prevents multiplicity of proceedings and accords finality to issues. Section 11 bars plea of issue tried in an earlier suit founded on a plaint in which the matter in issue directly and substantially becomes final. All the above apply to judicial proceedings including that of proceedings that go on a quasi-judicial setup and body as well.

In *Sulochana Amma v. Narayan Nair*, it was held that constructive *res judicata* is another facet of section 11 which bars a claim raised in a subsequent proceeding where the same ought to have been raised and decided in an earlier proceeding. But there are exceptions to these rules. In India, less rules and a greater number of exceptions is the beauty of the Indian judiciary and the Indian legal system. *R v. Medical appeal tribunal Ex-parte Gilmor* is a 1957 case. In this case, it was held that an established supervisory jurisdiction on decision on administrative tribunals. It held that a decision by the administrative tribal is final when questions of fact are challenged. The decisions of a tribunal though can be reviewed on grounds of excess jurisdiction or error apparent on the face of record. Every court has its own jurisdiction. For example, the Bombay High Court has its own jurisdiction, and that Court will not hear matters from the state of Orissa or from the state of Karnataka. A litigant who is in Orissa and has faced an issue in Karnataka, cannot go ahead and file a case before the Bombay High Court. The case must be filed in the state in which he is in the state in which the cause of action or the problem has actually arisen. Similarly, if there is a tribunal in your state, the action has taken place in your state. The cause of action cannot shift and therefore it is upon the tribunal to see whether they can accept the jurisdiction under which a particular litigant has approached them. In case of mixed questions of law and facts which are impossible to separate, a decision of a tribunal is final and conclusive. Therefore, in this case it was laid down that invoking a finality clause does not appeal to a court given there is a miscarriage of justice. In *Dhulabhai v. State of Madhya Pradesh*, in this case there were certain conditions that were laid down for the jurisdiction of a civil court. First, if the statute provides a finality clause, the civil court's jurisdiction is completely excluded given there is adequate remedy. The only exception to

this is non-conformity to fundamental judicial procedure. Next, in this very case there was a bar on review of adequacies of remedies by statute relevant but not decisive to sustain jurisdiction of a civil court.

In the same case it was held that the challenge to provisions of the particular Act as *ultra-vires* cannot be brought before tribunals constituted under the act. In questions of the correctness of assessment, orders of authorities are absolutely final. This case, laid down the conditions for the exclusion and jurisdiction of a civil court and when it comes down or boils down to correctness of assessment, the orders given by the authorities are deemed to be final. In *Sampath Kumar* case, the partial exclusion of judicial review is permitted, and a decision of the administrative tribunal is immune from judicial review by the High Court if the tribunal contains a judicial element, that is, the tribunal contains a judge. Therefore, in India only a partial immunity to judicial review is permitted.

According to Professor Wade in administrative law, there's the firm's judicial policy against undermining the rule of law to be weakening powers of the court and as per statutory restrictions and judicial remedies, given the narrowest possible construction. A sound policy against uncontrollable power of administrative authorities and tribals are also important. In a sense the doctrine of finality of administrative decisions, needs to be well appreciated in order for administrative action to be fully completed or to fully complete an administrative action before being subjected to judicial review, so that administrative proceedings are not hampered. For these reasons, generally the administrative action needs to be completely completed before they are subject to judicial review. But are there exceptions? The first exception to this is when the administrative act is in violation of the Constitution.

If the Constitution of that particular Act says that there should be four members, but there are only three members, there is an exception to this because there was a clear-cut violation of the administrative authority. Second, when the order is not reviewable by any other way and such relief is allowed by law, the order substantially affects the rights of the aggrieved. And the last when the order is in excess of jurisdiction. In simple words, a railway tribunal cannot hear a service matter dispute related to a government officer or a government servant from any government department. So, it just needs to be ensured that the administrative authority and what is written in law is followed in spirit and also in words, not merely in spirit. Second, the order that is not reviewable by any other way, given the orders being affected to the aggrieved party, also forms the ground of exception. And last, the order is in excess of jurisdiction. Another doctrine is the doctrine of exhaustion of civil remedies. Courts of law shouldn't entertain cases unless available administrative remedies have been resorted to. In simple words, if a case comes before the High Court, the High Court's primary duty is to look whether all the other administrative remedies were actually carried out or resorted to by the litigant before they approached a particular court.

Appropriate authorities must be given an opportunity to act and correct the errors committed by the administrative forum. If there is an error in the order, the administrative authorities should be given the responsibility and also the chance to correct the same and then bring it forward. Third, enabling statute must provide a procedure for administrative review, a system of administrative appeal and reconsideration. So, the judicial action must be complete in all the facets. But there are exceptions to the doctrine of exhaustion.

Exception lies when there is a violation of the due process, when the issue involved is purely legal, when the administrative action is patently illegal amounting to a lack or in excess of jurisdiction and when there is an estoppel on the administrative agency concerned. By estoppel, it is meant that the administrative agency has been told not to act in this particular case, but it still went ahead and participated or took part in this particular case. When there is a repairable injury, when the respondent is a department secretary, it cannot be done, because that will amount to conflict and the principles of natural justice that you cannot be a judge in your own case. It is necessary to consider if exhaustion of administrative remedies will be unreasonable. Administrative remedies or orders that come, need to be very reasonable. When it would amount to a nullification of the claim on the subject matter which is a private land, it cannot act.

When the rules fail to provide a plain speedy and adequate remedy, when the circumstances indicate urgency of judicial intervention, the tribunals must come in and play their role in this. When the involved claim is small, when strong public interest is involved in coordinator proceedings and when the issue is surrendered, moot or academic. And these are the exceptions to the doctrine of exhaustion of civil remedies. Only under such a process can you exhaust the process of civil remedies and entertain matters as and where it should be. In law, a matter of primary and focal importance is that the principles of natural justice must be followed in every order, in every judgment, by every court, by every judicial, non-judicial body or executive and legislative body as well.

The principles of natural justice, especially while adjudicating any case, any matter, must be addressed and they must be redressed as well. The judgments or orders, they need to be in line with the principles of natural justice. There are some principles of natural justice. First is *audi alteram partem*, which means the other side must be heard. A judgement cannot be delivered by hearing just one party to the case. You cannot deliver a judgment by hearing only the litigant. You need to hear both the parties there and there. So, procedural rules that ensure fairness in the process and exercise of governmental power, hearing the other side, fair hearing, and due process. *Audi alteram partem, d*oes not only mean that you hear the other side, but you must hear the other side with complete sincerity, with the fairness of judgment and hearing it by conducting the due process of law. And ingredients of fair hearing are not uniform, they differ from circumstance to circumstances.

Now, it may so happen that in a case one side may require 50 minutes to present its case, while the party that is defending the case may require only 10 minutes. Now, this is a fair hearing, this is not an unfair hearing. Therefore, it is said that the ingredients of a fair hearing cannot be uniform, they will differ from circumstance to circumstance. And sometimes the hearing in the form of full trial is required and sometimes post decisional hearings are also sufficient that you decide and then you hear the party. In a court of law, this will not happen in a tribunal system since it is flexible in nature, it is not bound by the strict procedure of civil and criminal procedure code and they do have the liberty and the leeway to exercise their domain in this particular manner.

There are some essential components to this principle of natural justice. First, the communication of charges must be made amicably clear to both the parties, and this is a mandatory requirement, an effective person must be given sufficient time to prepare for his case. When charges are leveled against the other person, the other person must also have the right to defend himself and the remedy to bring forward his defense in the best possible manner. Notice that is served upon the other side can be considered as inadequate if the notice contains unsubstantiated particulars not specific as to the consequences. If there is a service matter and a person has been dislodged from service, the notice must state as to under what circumstances and what were the reasons and under which law a particular person has been dislodged or dismissed from his service.

More than one grounds and consequences which are not identified or identifiable should not be mentioned to the act that has taken place and notice may be dispensed with where the person avoids notice. In the case of *Punjab National Bank v. All India Bank Employees Federation*, a 1971 case from the Supreme Court of India, penalty was imposed upon the respondent not specified in the notice. Because the notice did not contain details of the charges imposed, the penalty held was invalid. In this case, it was held that a notice should be clear and unambiguous or cannot be considered reasonable and proper. The same was held in *Keshav Mills Co. Ltd. v. The Union of India*. So, whenever notice is being served, the name of the party to whom it's being served, the address where it is being served and most importantly the charges that are imposed, must all be very clearly and amicably put forward to the person receiving the notice. There is next, a stage of hearing. Hearing may be oral or written depending on the complexity of the case and the level of the case in which it is. In a case involving complex questions of fact, oral hearing becomes really necessary. Such matters cannot be finished by a written hearing alone. You need to have an oral hearing in this matter. For example, in tax matters or matters of deportation, customs, service matters, you need to have an oral hearing, which is subsequently precluded by written submissions as well.

As to the next prerequisite, no evidence should be collected in the absence of the opposite party. This was held in *Stafford v Minister of Health* that when the other party is absent, evidence should not be collected. The presence of the opposite or other party is required

while furnishing information regarding previous convictions, which the court might rely upon. In *Hira Nath Mishra v. Principal Rajendra Medical College*, it was held that disclosure of material may be summary, or the copy of the materials relied upon.

In cases relating to disciplinary action against civil servants, copies of material must be supplied. The documents do act as one of the most important kinds of evidence to reach the conclusion of the case in the best possible manner. Right to cross-examination is absolutely available if oral evidence has been taken, then you do have the right to question the other party through a lawyer or as the case may be. Further, it is applicable to labour cases, disciplinary cases of civil servants, employees of statutory corporations, taxes, etc. owing to the reason that, if a person has been dismissed, the departmental head is called on and he will be asked why the person was dismissed, then the chance of cross examination arises.

Therefore, the right to cross-examination also forms a very important element. In a 1972 case of *Kanungo and Company v. Collector of Customs*, a person who gave relevant information regarding the case was not cross-examined and it was held that an informant who is giving relevant information or even mere information needs to be cross-examined in presence of the appellant on statements made to the customs authority. If the cross-examination is going on, it must be held in the presence of the other side as well. So, a right to legal representation also forms an important part of *audi alteram partem*, which is a right to request for a right to counsel. That is, if a person is arrested, he has a right or if a person has been charged or framed, he has a right to appoint a lawyer, because not everyone will be well equipped with the various kinds of law under which a person is charged.

In the case of *J.J. Modi versus State of Bombay*, the appellant denied right to legal representation, and it was held if assistance of a lawyer is part of a reasonable opportunity of showing cause, denial is a violation of Article 22, and the principles of natural justice are being completely violated. But the same is not without exceptions. There is a statutory exclusion, there is a legislative function, authoritative nature of the administrative order, impracticability, and interdisciplinary action. Under these four circumstances only, *audi alteram partem* may be excused.

Yet another principle of natural justice is *nemo* debet *esse judex in propria causa* which has dimensions like, justice, due right, reality, fair presentation, impartiality, claim. It simply means no man shall be a judge in his own course. If in a service matter, the head of the department has been dismissed, he cannot be a judge or be a part of the panel that is actually deciding his case and this is the second principle of natural justice. The next principle is an essential safeguard to uphold the principles of justice and fairness in any judicial or administrative process.

Therefore, it is very important to hold the principles of justice in fairness in the judicial or administrative process. It's based on other legal principles such as, justice must not only be done but manifestly and undoubtedly be seen to be done. It simply means justice needs to be done in the best possible manner and it should not seem that justice is being done in an unfair manner where one person is being biased towards the other. The word bias, the operative prejudice, conscious or unconsciousness resulting in preconceived opinion or predisposition regarding a person or issue plays a significant role and the objective is to ensure to the public that there is impartiality of the administrative adjudicatory process and decision as a result of bias is a nullity; and the trial of a quorum is not curious and therefore not before a judge. This is also known as the rule against bias and there should be absence of consciousness or unconsciousness, prejudice to either of the parties to a case.

Thus, there are various kinds of bias. The second part of the principles of natural justice is that no man shall be a judge in his own cause. The pecuniary bias is referring to the monetary interest that a judge may have in a case. The rule is that the least pecuniary interest in the subject matter of the litigation will disqualify a person from acting as a judge. In a very old case, the *Bonham* case, Dr. Bohan was fined by the College of physicians for practicing in London without a license of the college. The relevant statute provided for equal distribution of fines between the college and the king. The claim disallowed the college's financial interest in its own judgment and became a judge in its own cause and therefore it could not take money for the practicing license that was not there. So, the claim was disallowed and the financial interest was not seen. Here, the college since it was a part of the entire procedure, it became a judge in its own cause.

Then there is the case of *J. Mohapatra & Co. v. State of Orissa*. In this case, decisions of the textbook selection committee invalidated members of the committee who were authors of the books. Withdrawing members who authored books from committee, insufficient, while their books are considered for circulation among students. This is with regards to a pecuniary bias. The second kind of bias refers to a situation which is where the judge is a friend, relative or business associate of a party to a case. Reasonable evidence of bias is necessary to challenge a decision. For example, if the son of a judge is himself involved in a case and the matter is listed before such a judge, it becomes a personal case for the judge, who is very likely to have some kind of bias towards him. And so, the judge may not be able to render justice in its complete and fullest essence. And therefore, it is said that reasonable evidence of bias is necessary to challenge a decision. There are two tests in this regard, reasonable suspicion of bias that looks mainly to outward appearance and second, reasonable likelihood of bias that focuses on the court's own evaluation of possibilities.

In *A.K. Kraipak v. Union of India*, the regulation dealing with preparation of list of suitable candidates for the post of ex-official chairman of the selection board was challenged. The selection committee's decisions were held to be violative of the principles of natural justice because the mere presence of the candidate in the selection board would definitely

influence decisions of other members of the board which can lead to a bias. So, the principles of natural justice are applied to judicial, administrative, and executive decisions as well. The third kind of bias is official bias. Official bias arises when the judge has an interest in the subject matter of the case. For instance, in a matter of land dealing, an illegal construction has come up on a particular land which at the point of time may not be illegal, but later is by some means illegal.

If you purchased a flat in that particular construction, this is something where I have an interest in the subject matter of the case, and so there is a matter bias that is related here and this can be alleged in cases where there is total non-application of the mind or acting on the advice of a superior. If a judge is acting on the aid and advice of some senior member, it is also known as an official bias. In *Gullapalli, Nageshwar Rao v APSRTC*, the Supreme Court watched the decision of the Andhra Pradesh government to nationalize road transport.

It was invalidated as the secretary of the Andhra Pradesh State Regional Transport Corporation, conducted the hearing and he had an interest in the subject matter. Another kind of bias, is a preconceived notion bias, wherein a decision maker already has an opinion or idea of a case before it is heard because that will generally lead to the general human tendency of one having a bias towards that. As to bias on account of obstinacy, it is a situation where a decision maker shows unreasonable persistence in upholding their own decision. There are valid reasons to reconsider the decision because the violation can be done indirectly, though not directly.

In the 2009 case of *A.U. Kureshi v. High Court of Gujarat*, the judicial officer was dismissed from service after being found guilty in a disciplinary inquiry. So, the appellant was previously acquitted as an accused under the Gambling Act and returned the seized money. A complaint was filed against the appellant leading to a disciplinary inquiry. The High Court recommended the appellant's dismissal based on the suggestion of the disciplinary company. When the matter went to the Supreme Court, the Supreme Court held that it is completely improper for the disciplinary committee to judge or challenge against the same dismissal order while it acted as a pure judicial authority in its capacity.

Reasoned decisions are the third pillar in the principles of natural justice, which is the principle of reasoned decision. Every decision must have a reasoning to it. Be it an order, or a judicial reason or a note, it must have a reasoned background to it. This evolved in 2010 and is stated to have evolved recently, in judicial parlance. This is recognized in India and the USA is yet to be recognized by English law. Decisions of administrative authorities must disclose reasons because we are reviewing authorities to examine whether they are taken on the basis of relevant consideration or suffer from factual or legal infirmities. Now, the speaking order coined by North Chancellor Earl Carnes, essential for judicial review. The characteristics of reasoned decisions is that they should contain adequate reasons in

support of the decisions. No particular form of recording is required. And third, applicable to public and private laws. So, the reason must be or must have an element of adequate reasons to conclude or come at a finality of a decision. And the introduction of fairness and administrative power helps minimizing arbitrariness and maintaining the right to reason. Record reasons operate as a deterrent against similar cases, because you cannot just deliver a judgment and later take a stand stating a total ignorance of such a political judgment. Therefore, every judgment and order must have a reasoned line of reasoning that concludes to a particular reasoning.

In doctrine of justiciability, recorded reasons are subject to judicial scrutiny and therefore it is said that it is very important to record reasons as an important safeguard against arbitrary exercise of power by adjudicating authority. It is never known if there is an order that was completely given in an arbitrary matter. It is realized only when you have the reasons and then you read the order. If reasons found are unclear or not in support of conclusion, a decision may be set aside. The exceptions to reasoned decisions are externment orders and decisions by way of court-martial proceedings where these do not come into the picture. Now, in a 1978 case, *Sunil Batra v Delhi Administration*, examined Section 56 of the Prisoners Act 1894. According to this section, this implied duty of the jail superintendent to give reasons for putting jail fetters on a prisoner. Otherwise, this act will be considered invalid as per Article 21 of the Constitution. It does not only extend to the judicial activities by tribunals and courts, but it also extends to the executive who is carrying out this duty on a day in and day out basis. They also need to observe these things. They also need to observe their reasonings and their reasons as to why they are putting a particular person or fetters on a prisoner. Every order or everything that is done in a governed institution needs to be backed by reason and by order. There are also exceptions to principles of natural justice. In case where there is an emergency and there requires a prompt preventive or remedial action that needs to be taken. For example, there is a flood or a natural calamity that has taken place and a person was actually there as the departmental head is not working, is not functioning properly.

In such a kind of emergency, there can be a preventive or a remedial action wherein you may not require giving a reason or to dismiss that particular person because that is the need of the time. In case of confidentiality, wherein there are many matters that are very confidential for various kinds of reasons. It may be for the protection of a person's life. It may also extend to the aspect of national security. So, cases concerning security of the state and public tranquility or to maintain the higher order or to maintain the societal degree of calmness and consciousness and composedness, it may be required. Third, in case of purely administrative matters where cases of academic adjudication are involved. Fourth, based on impracticability. Administrative impracticability justifies the violation. Fifth, cases of interim preventive action where an order is preventive but not final in nature. When a case is ongoing, there are many orders that a court passes. These orders can be for various things,

for a party to appear on a particular day and date, for a party to bring before it a particular document, for a party to produce a particular kind of evidence. All these cases where there is an order but that order may not be final in nature is an exception to the principle. Cases of legislative action. rules, plenary, subordinate, lay down a policy without reference to an individual. If no right has been infringed or where no wrong has taken place, of course, there will be an exception.