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# THE CONCEPTUAL ANALYSIS OF THE PRINCIPLE AUDI ALTERAM PARTEM AND ITS EVOLUTION FROM THE COMMON LAW

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AUDI ALTERAM PARTEM

## Introduction

"Natural justice" is an important concept in administrative law. In the words of Megarry J[1], it is "justice that is simple and elementary, as distinct from justice that is complex, sophisticated and technical". The principles of natural justice or fundamental rules of procedure for administrative action are neither fixed nor prescribed in any code. They are better known than described and easier proclaimed than defined. Natural justice has meant many things to many writers, lawyers and systems of law. It has many colors and shades and many forms and shapes. According to De Smith[2], the term "natural justice" expresses the close relationship between the common law and moral principles and it has an impressive ancestry. It is also known as "substantial justice", "fundamental justice", "universal justice "or "fair play in action". It is a great humanizing principle intended to invest laws with fairness, to secure justice and to prevent miscarriage of justice. The rule of natural justice has evolved with the growth of civilization. Natural justice is the concept of common law which implies fairness, reasonableness, equality and equity. In India, the principles of natural justice are the grounds of Article 14 and 21 of the Constitution. Article 14 enshrines that every person should be treated equally. Article 21 in its judgment of ***Maneka Gandhi vs. The Union of India***[3], it has been held that the law and procedure must be of a fair, just and reasonable kind. The principle of natural justice comes into force when no prejudice is caused to anyone in any administrative action. The principle of Audi Alteram Partem is the basic concept of the principle of natural justice. This doctrine states the no one shall be condemned unheard. This

[1] .*John* v. *Rees*, 1970 Ch 345: (1969) 2 WLR 1294.
[2] . *De Smith's Judicial Review* (8th Edn., Sweet and Maxwell 2018) 345.
[3] . AIR 1978 SC 597.

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ensures a fair hearing and fair justice to both the parties. Under this doctrine, both the parties have the right to speak. No decision can be declared without hearing both the parties. The aim of this principle is to give an opportunity to both the parties to defend themselves.

## Meaning of Audi Alteram Partem

"Audi Alteram Partem" means *"hear the other side",*or *"no man should be condemned unheard"* or *"both the sides must be heard before passing any order"*. In other words, it denotes that every party shall get an opportunity of hearing and no one shall go unheard in a case. The maxim Audi Alteram Partem is derived from the Latin phrase *"audiatur et altera pars"* which means that every party shall be heard. This maxim is one of the fundamental rules of administrative law that ensures justice to both parties. As per this maxim, every party shall get an opportunity to plead and assert evidence to support his case.

## Doctrine Explanation

The second fundamental principle of natural justice "Audi Alteram Partem". This is the basic requirement of rule of law. It has been described as "foundational and fundamental" concept. It lays down a norm which should be implemented by all courts and tribunals at national as also at international level.

De Smith[4] says: *No proposition can be more clearly established than that a man cannot incur the loss of liberty or property of an offence by a judiciary proceeding until he has had a fair opportunity of answering the case against him*.

"A party is not to suffer in person or in purse without an opportunity of being heard[5]". This is the principle of civilized jurisprudence and is accepted by laws of Men and God.
In short, before an order is passed against any person, reasonable opportunity of being heard must be given to him. Generally, this maxim includes two elements:1)notice, and 2)hearing.

[4] .*Judicial Review of Administrative Action(1995) 380.*
[5] . *Painter V. Liverpool Oil Gas Light Co.,(1986) 3 Ad.*

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# Origin of the Concept of Natural Justice

Natural justice has discovered its root in the early Greek and Roman empires, being recognized even in Kautilya's Arthashastra. In a larger number of ways than other the Indian concept of dharma is similar to the concept of natural justice. All organs of the State including executive, legislative and judicial were kept up by the king. In this way the obligation was on the king to reform and make the Code of law to keep up peace and equality in the State. Indian emperor Ashok set out the significant rules regarding what nature of justice ought to be. He had extraordinary worry for reasonableness in the activity of justice, alert and tolerance in use of sentences, and so forth. Similarly the great Babylonian king Hammurabi ensured the obligations of officials by ruling that "any judge who reaches an incorrect decision is to be fined and removed from the bench permanently".

As it is apparent, principles of natural justice are not a new invention, but also, it isn't a product of man either. It originated from our core moral conscience and has been since built upon by several philosophers, jurists, kings and teachers. Aristotle, who is considered the biggest proponent of Natural justice, holds that, as support for a virtuous existence that advances lives of individuals and promotes perfect community, people should make use of practical wisdom or active reason to be consistent with a virtuous existence.

In this context, we must refer to para 43 of the judgment of the Hon'ble Supreme Court in the case of ***Mohinder Singh Gill v. Chief Election Commissioner***[6], which says:

*"Indeed, natural justice is a pervasive facet of secular law where a spiritual touch enlivens legislation, administration and adjudication, to make fairness a creed of life. It has many colours and shades, many forms and shapes and, save where valid law excludes, it applies when people are affected by acts of authority. It is the bone of healthy government, recognised from earliest times and not a mystic testament of judge-made law. Indeed from the legendary days of Adam- and of Kautilya's Arthashastra-the rule of law has had this stamp of natural justice, which makes it social justice. We need not go into these deeps for the present except to indicate that the roots of natural justice and its foliage are noble and not new-fangled. Today its application must be sustained by current legislation, case law or other Extant principle, not the hoary chords of legend and history. Our jurisprudence has sanctioned its prevalence even like the Anglo-American system."*

[6] .AIR 1978 SC 851.

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In ***Swadeshi Cotton Mills V. Union of India***[7] , It was observed that Natural justice is a branch of public law and is a formidable weapon which can be wielded to secure justice to the citizen.

Also in ***Canara Bank V. V K Awasthi***[8], the supreme court observed that principles of natural justice are those rules which have been laid down by courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, Quasi–judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.

Even God did not pass sentence upon Adam before he was called upon to make his defense. Adam, says God, „Where art thou? has thou not eaten out of the tree whereof I commanded thee that thou should not eat?

Accordingly even though person has committed a wrongful act he must be heard before sentenced, specially where decision affecting liberty or property is to be made fair opportunity of hearing must be provided, for this reason whatever the meaning of natural justice may have been, and still is to other people, the common law lawyers have used the term in a technical manner to mean that in certain circumstances decisions affecting the rights of citizens must only be reached after a fair hearing has been given to the individual concerned. And in this context fair hearing requires two things, namely, AUDI ALTERAM PARTEM and NEMO DEBET ESSE JUDEX IN PROPRIA SUA CAUSA.

*Audi Alterm Partem –A Historical Prescriptive*

The rules of procedural fairness, as rules of natural justice were derived from natural law as is demonstrated by English cases of the seventeenth and eighteenth centuries. The first limb to be considered in this connection is the so-called hearing rule.

The evolutions of hearing rule come into view in many cases in the Year Books. 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

[7] . AIR 1981 1981 SC 818.
[8] . AIR 2005 6 SCC 321

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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 judgmentof his peers or by the law of the land It was in ***Bagg***'s Case[9] (1615) audi alterm partem was considered in length the case concerned municipal misbehavior. The Mayor and Chief Burgesses of the Borough of Plymouth had removed one of their members, James Bagg, from the office of Chief Burgess on the grounds of his misconduct. They made a number of allegations against him. They said that he had called the previous Mayor, Mr. Trelawney, a 'cozening knave' and 'an insolent fellow'. They said that he had threatened to crack the neck of the current Mayor, Thomas Fowens. Worst of all they said that
In the presence and hearing of … Thomas Fowens, … and very many others of the burgesses and inhabitants of the borough … and in contempt and distain of the said Thomas Fowens, then mayor, turning the hinder part of his body in an inhuman and uncivil manner towards the aforesaid Thomas Fowens, scoffingly, contemptuously and uncivilly, with a loud voice, said to the aforesaid Thomas Fowens, these words following that is to say, ('Come and kiss').

Mr Bagg commenced proceedings in the Court of Kings Bench challenging his removal from office by the Mayor and other Burgesses. The Court ordered the Mayor and the Burgesses to either restore Mr Bagg to office or to show cause why he was removed. An answer was given referring to Mr Bagg's very bad behavior. However, the Court was not satisfied that the reasons given in the return to the writ justified his removal. On the question of how and by whom and in what manner a citizen or burgess should be disenfranchised, Coke CJ said: … although they have lawful authority either by charter or prescription to remove any one from the freedom, and that they have just cause to remove him; yet it appears by the return, that they have proceeded against him without … hearing him answer to what was objected, or that he was not reasonably warned, such removal is void, and shall not bind the party.

Bagg's Case was an early judicial expression of the hearing rule, although by no means the first. It was probably most notable as one of the first occasions on which mandamus was used as a tool for judicial review of administrative action. In justifying the issue of the writ, Coke asserted the jurisdiction of the Court of King's Bench in sweeping terms as:

not only to correct errors in judicial proceedings, but other errors, and misdemeanors [sic] extra-judicial, tending to the breach of peace, or oppression of the subjects, or to the raising of faction,

[9] . (1615) II Co Rep 93 b: 77 ER 1271.

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controversy, debate, or to any manner of misgovernment; so that no wrong or injury, either public or private, can be done but that it shall be (here) reformed or punished by due course of law In 1723, the Court of King's Bench issued mandamus to the University of Cambridge requiring the restoration to one Dr Bentley of the degrees of Bachelor of Arts and Bachelor and Doctor of Divinity of which he had been deprived by the University without a hearing. Dr Bentley had been served with a summons to appear before a University court in an action for debt. He said the process was illegal, that he would not obey it and that the Vice-Chancellor was not his judge. He was then accused of contempt and without further notice deprived of his degrees by the 'congregation' of the University. The judgment of Fortescue J in the case is often cited as an example of the way in which the idea of natural law informed the concept of natural justice.

Fortescue J said: The laws of God and man both give the party an opportunity to make his defence, if he has any. I remember to have heard it observed by a very learned man upon such an occasion, that even God himself did not pass sentence upon Adam, before he was called upon to make his defence.

After ***Dr Bentley's*** Case[10] the hearing rule was reinforced in 1799 by Lord Kenyon CJ in R v Gaskin. It was Lord Kenyon who apparently coined the Latin term 'audi alteram partem' to encapsulate the rule, of which he said: It is to be found at the head of our criminal law, that every man ought to have an opportunity of being heard before he is condemned. This is how principle of Audi Alterm Partem evolved in common law system.

The Principles were accepted as early as in the days of Adam and of Kautilya's Arthashastra. According to the Bible, when Adam & Eve ate the fruit of knowledge, which was forbidden by God, the latter did not pass sentence on Adam before he was called upon to defend himself. same thing was repeated in case of Eve. Later on, the principle of natural justice was adopted by English Jurist to be so fundamental as to over-ride all laws

*Essential Elements*

1)Notice

Before any action is taken, the affected party must be given a notice to show cause against the

[10] . (1723) I Str 557,567:93 ER 698.

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proposed action and seek his explanation. It is a sine qua non of the right of fair hearing. Any order passed without giving notice is against the principles of natural justice and is void ab initio. Before taking any action, it is the right of the person to know the facts. Without knowing the facts of the case, no one can defend himself. The right to notice means the right of being known. The right to know the facts of the suit or case happens at the start of any hearing. Therefore, notice is a must to start a hearing. A notice must contain the time, place and date of hearing, jurisdiction under with the case is filed, the charges, and proposed action against the person. All these things should be included in a notice to make it proper and adequate. Whenever a statute makes it clear that a notice must be issued to the party and if no compliance or failure to give notice occurs, this makes the act void. The article should contain all the essentials to it. If it only contains the charges but not the ground or time or date, then the notice must be held invalid and vague. Non-issue of the notice or any defective service of the notice do not affect the jurisdiction of the authority but violates the principle of natural justice.

In a case of ***Punjab National Bank v. All India Bank Employees Federation***[11], the notice contained certain charges but the penalty was imposed on the charges other than those mentioned in the notice. Thus, the charges on which the penalty was imposed were not contained in the notice served on the person concerned. The notice was not proper and, therefore, imposition of penalty was invalid. It is to be noted if the person concerned is aware of the case against him and not prejudiced in preparing his defense effectively the requirement of notice will not be insisted upon as a mere technical formalities and proceeding will not be vitiated merely on the technical ground. That the person concerned was not served notice before taking the action as in case of ***Keshav Mills Co. Ltd. V. Union of India***[12], The notice is required to be clear and unambiguous. If it is ambiguous or vague, it will not be treated as reasonable and proper notice. If the notice does not specify the action proposed to be taken, it is taken as vague and, therefore, no proper as in case of ***Abdul Latif v. Commr***[13]. The notice will also be vague if it does not specify the property proposed to be acquired as in case of ***Tulsa Singh v. State of Haryana***[14]. As regards the detention under any law providing for preventive, Clause (5) of Article 22 provides that in such condition the making the order for such detention must, as soon as may be, communicate to the detenue the grounds on which the order has been made and must give him the earliest opportunity of making

[11] .AIR 1971 SC 389.
[12] . AIR 1973 Punj.263 33.
[13] . AIR 1937 Punj 263 . AIR 1978 SC 851.
[14] . (1970) Lab IC 1448.

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a representation against the order. The grounds communicated to the detenue must not be vague or insufficient or irrelevant, vague or in adequate, the detenue is entitled to be released.

In ***Ravi S.Naik V. Union of India***[15], a member of Goa Legislative Assembly was disqualified by the speaker.The relevant rules provided notice of "seven days" or "such further period as the Speaker may for sufficient cause allow". In this instant case, however, notice gave only three days time.

Holding that there was no prejudice to the member and upholding the action, the Supreme Court stated that the principles of natural justice are flexible and not immutable. "Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case".

In ***Ajith Kumar Nag V. Indian Oil Corpn.Ltd***[16]. ,an employee of the corporation and assaulted and beaten the Chief Medical Officer. His services were terminated under the relevant standing orders.The action was upheld.

2)Hearing

Oral or Personal Hearing- How Far Necessary: The second ingredient of audi alteram partam (hear the other side) rule is the rule of hearing. If the order is passed by the authority without providing the reasonable opportunity of being heard to the person affected by it adversely will be invalid and must be set aside as in the cases of ***Harbans Lal V. Commissioner***[17], ***National Central Co-operative Bank V. Ajay Kumar***[18]and ***Fateh Singh V. State of Rajasthan***[19]. The reasonable opportunity of hearing which is also well known as 'fair hearing' is an important ingredient of the audi alteram partem rule. This condition may be complied by the authority by providing written or oral hearing which is the discretion of the authority, unless the statue under which the action being taken by the authority provides otherwise. Thus like U.S.A. and England, the Courts in India do not consider the right to oral or personal hearing as part of the principle of Audi Alteram Partem unless the statue under which the action is taken by the authority provides for the oral or personal hearing unless it is not indicated at without oral or personal hearing the person cannot adequately present. Personal or oral hearing is important when the context requires it was required

[15] . 1994 Succ (2) SCC 641: AIR 1994 SC 1558.
[16] . (2005) 7 SCC 764: 2005 SCC (L&S) 1020.
[17] . AIR 1994 SC 39.
[18] . AIR 1995 Raj 15 35.
[19] . (1968) SC [C.A. 1362/67 dt. 16(J2.1968]39.

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in the case of ***A.K. Gopalan V. State of Madras***[20]. It is the duty of the authority who will ensure that the affected party may be given an opportunity of oral or personal hearing if the context requires otherwise. However, the above rule of fair hearing requires that the affected party should be given an opportunity to meet the case against him effectively and this may also be achieved by providing opportunity to the affected person by making 'written representation' instead of oral or personal hearing as was provided in the case of ***Union of India V. J.P. Mitter***[21].

3)Evidence

Evidence is an important part which is to be brought properly before the Court in the presence of both the parties and a judicial or quasi judicial authority must have to act on the evidence produced as in the case of ***R v. Bodmin*** and not merely on any information which the authority may receive otherwise as in the case of ***Collector of Central Excise v. Sanwarmal***[22].Ordinarily, no evidence personal or oral should be received at the back of other party and if any such evidence is recorded, it is duty of the authority that such evidence must be made available to the other party as in the case of ***Stafford v. Minister*** of Health and in another case of ***Hira Nath v. Principal***. The principle is not confined to formal evidence but extends to any material including information regarding previous conviction, upon which the Tribunal may act, without giving opportunity to the affected party to rebut it. In case of ***Keshav Mill Co. v. Union of India***[23]the Supreme Court was not ready to lay down an inflexible rule that it was not necessary to show the report of enquiry committee to the affected person. The court made it clear that whether the report of the enquiry committee should be furnished or not depends in every individual case on merits of the case. An adjudicating authority must disclose all evidence and material placed before it in the course of proceedings and must afford an opportunity to the person against whom it is sought to be utilised. The object underlying such disclosure is to afford an opportunity to the person to enable him to prepare his defence, rebut the evidence relied upon by the complainant against him and put forward his case before the authority In ***Dhakeswari Cotton Mills Ltd. v. CIT.***[24] , the Supreme Court set aside the order passed by the Appellate Tribunal on the ground that it did not disclose some evidence produced by the department and used against the assessee.

[20] . AIR 1950 SC 27
[21] . 1971 AIR 1093 1971 SCR(3) 483 1971 SCC(1) 396.
[22] . 1978 1 SCC 248 597 (SC).
[23] . (1992) 2 SCC 620
[24] . AIR 1955 SC 65: (1965) I SCR 941.

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In ***Bishambhar Nath Kohli v. State of U.P.***[25] in revision proceedings, the Custodian General accepted new evidence produced by one party, but no opportunity was given to the other side to meet with the same. The Supreme Court held that the principles of natural justice were violated.

The use of hearer's report without disclosure to the person charge-sheeted is like a performance of Hamlet without the Prince of Denmark." Of course, the recent trend is that the person has to prima facie satisfy the court that prejudice has been caused to him by such non-disclosure."

4)Cross Examination

The adjudicating authority in a fair hearing is not required only to disclose the person concerned the evidence or material to be taken against him, but he should be provided an opportunity to rebut the evidence or material. The important question before the authority is that the witness should be cross-examined or not.

In another case of ***Kanungo & Co. v. Collector of Customs***[26] the business premises of a person were searched and certain watches were confiscated by the authority under Sea Customs Act. The said person was not allowed to cross-examine the persons who gave information to the authority. There was no violation of the natural justice and the Court held that the principles of natural justice do not require the authority to allow the person concerned the right to cross examine the witnesses in the matters of seizure of goods under the Sea Customs Act. If the person concerned is allowed the right to cross-examine, it is not necessary to follow the procedure laid down in the Indian Evidence Act.

In State of ***Kerala V. Shaduli***[27] Grocery Dealer, the returns filed by the respondent assessee on the basis of his books of account appeared to the Sales Tax Officer (STO) to be incomplete and incorrect, since certain sales appearing in the books of accounts of a wholesale dealer were not mentioned in the account books of the respondent. The respondent applied to the STO for opportunity to cross examine the wholesale dealer which was rejected by him. Holding the decision of the STO to be illegal, supreme Court held that there respondent could prove the correctness and completeness of his returns only by showing that the entries in the books of accounts of the wholesale dealer were false and bogus and this obviously the responding could

[25] . AIR 1966 SC 573: (1966) 2 SCR 158
[26] (1992) 2 SCC 620.
[27] AIR 1968 SC 300.

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not do unless he was given an opportunity to cross examine wholesale dealer. But in certain circumstances, cross examination may not be allowed to a person against whom proceedings have been initiated. In the absence of express provision, the authority or tribunal will consider whether cross examination is an essential ingredient of natural justice. If such provision exists, such cross examination cannot be denied.

5)Legal Representation

An important question is whether right to be heard includes right to legal representation? Fairly speaking, the representation through a lawyer in the administrative adjudication is not considered as an indispensable part of the fair hearing. But, in certain situations if the right to legal representation is denied, then it amounts to violation of natural justice. Thus where the case involves question of law as in case of **J.J. Mody V. State of Bombay** and in another case of **Krishna Chandra V. Union of India**, the denial of legal representation will amount of violation of natural justice because in such conditions the party may not be able to understand the question of law effectively and, therefore, he should be given an opportunity of being heard fairly.

*Exceptions To Audi Alteram Partem:*

The word exception in the context of natural justice is really a misnomer, but in the below mentioned exclusionary cases, the rule of audi alteram partem is held inapplicable not by way of an exception to "fair play in action", but because nothing unfair can be inferred by not affording an opportunity to present or meet a case. But such situations where nothing unfair can be inferred by not affording a fair hearing must be few and exceptional in every civilized society. The rule of audi alteram partem is held inapplicable not by method for a special case to "reasonable play in real life", but since nothing unjustifiable can be derived by not managing a chance to present a case.

(1) Statutory Exclusion:

Natural justice is implied by the Courts when the parent statute under which an action is being taken by the Administration is silent as to its application. Omission to mention the right of hearing in the statutory provision does not ipso facto exclude a hearing to the affected ***Maneka Gandhi V.. Union of India***[2], ***Karnataka Public Service Commission V. B.M. Vijay Shankar, Ram Krishna Verma V. State of U.P***. A statute can exclude natural justice either expressly or by necessary implication. But such a statute may be challenged under Art.14 so it should be

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justifiable. In ***Charan Lal Sahu vs UOI*** (Bhopal Gas Disaster case) is a classical example of the application of this exception. In this case the constitutional validity of the Bhopal Gas Disaster (Processing of Claims) Act, 1985, which had authorized the Central Government to represent all the victims in matters of compensation award, had been challenged on the ground that because the Central Government owned 22 percent share in the Union Carbide Company and as such it was a joint tort feasor and thus there was a conflict between the interests of the government and the victims. The court negative the contention and observed that even if the argument was correct the doctrine of necessity would be applicable to the situation because if the government did not represent the whole class of gas victims no other sovereign body could so represent and thus the principles of natural justice were no attracted.

Natural justice is submitted by the Courts when the parent statutes under which an action is made by the administration is quiet as to its application. Exclusion to make reference to one side of hearing in the statutory arrangement does not reject the hearing of the other party.

(2) Legislative Function

A ground on which hearing may be excluded is that the action of the Administrative in question is legislative and not administrative in character. Usually, an order of general nature, and not applying to one or a few specified persons, is regarded as legislative in nature. Legislative action, plenary or subordinate, is not subject to the rules of natural justice because these rules lay down a policy without reference to a particular individual. On the same logic, principles of natural justice can also be excluded by a provision of the Constitution also. The Indian Constitution excludes the principles of natural justice in Art. 22, 31(A), (B), (C) and 311(2) as a matter of policy. Nevertheless, if the legislative exclusion is arbitrary, unreasonable and unfair, courts may quash such a provision under Art.14 and 21 of the Constitution.

In ***Charan Lal Sahu vs. UOI***, the constitutional validity of the Bhopal Gas Disaster (Processing of Claims) Act, 1985 was involved. This legislation provide for details of how to determine claims and pay them. The affected parties approached the SC and contended that no hearing was provided to them and it was violative of Audi Alteram Partem. The SC held, “For legislation by Parliament no principle of natural justice is attracted, provided such legislation is within the competence of the Legislature.

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"Emergency In India, it has been generally acknowledged that in cases of extreme urgency, where interest of the public would be jeopardizes by the delay or publicity involved in a hearing, a hearing before condemnation would not be required by natural justice or in exceptional cases of emergency where prompt action, preventive or remedial, is needed, the requirement of notice and hearing may be obviated. Therefore, if the right to be heard will paralyze the process, law will exclude it.

In ***Mohinder Singh Gill vs. CEC***, whether notice and right to be heard must been given or not was been laid down before the SC.

In Firozhpur Constituency Parliamentary Election counting was been going on where in some segments counting were going on and in some it was over. One candidate was having a very good lead but before the declaration the very purpose of surveillance and there is every possibility of the ends of justice being defeated instead of being served.

The fact that the in-question administrative action is legislative and not administrative in nature is one reason why a hearing may be excluded. Ordinarily, a general command that doesn't apply to a single or small group of people is considered to be legislative in character.

(3) Impractibility:

Natural justice can be followed and applied when it is practicable to do so but in a situation when it is impracticable to apply the principle of natural justice then it can be excluded. In ***Bihar School Examination Board vs. Subhash Chandra***, the Board conducted final tenth standard examination. At a particular centre, where there were more than thousand students, it was alleged to have mass copying. Even in evaluation, it was prima-facie found that there was mass copying as most of the answers were same and they received same marks. For this reason, the Board cancelled the exam without giving any opportunity of hearing and ordered for fresh examination, whereby all students were directed to appear for the same. Many of the students approached the Patna HC challenging it on the ground that before cancellation of exam, no opportunity of hearing was been given to the students. The HC struck down the decision of the Board in violation of Audi Alteram Partem. The Board unsatisfied with the decision of the Court approached the SC. The SC rejected the HC judgment and held that in this situation, conducting hearing is impossible as thousand notices have to be issued and everyone must be given an opportunity of hearing,

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cross-examination, rebuttal, presenting evidences etc. which is not practicable at all. So, the SC held that on the ground of impracticability, hearing can be excluded.

(4) Academic Evaluation:

Where nature of authority is purely administrative no right of hearing can be claimed. In ***Jawaharlal Nehru University v. B.S. Narwal***, B.S Narwal, a student of JNU was removed from the rolls for unsatisfactory academic performances without being given any pre decisional hearing. The Supreme Court held that the very nature of academic adjudication appears to negative any right of an opportunity to be heard. Therefore, if the competent academic authorities examine and asses the work of a student over a period of time and declare his work unsatisfactory, the rules of natural justice may be excluded.

(5) Inter-Disclipinary Action:

In Inter- Disciplinary action like suspension etc. there is no requirement to follow the principle of natural justice. In **S.A Khan vs. State of Haryana**, Mr. Khan an IPS Officer holding the post of Deputy Inspector General of Haryana; Haryana Govt., was suspended by the Haryana Government due to various complaints against him. Thus, he approached the Supreme Court on the ground of violation of PNJ as he was not given an opportunity to be heard. The SC held that the suspension being interimdisciplinary action, there is no requirement to afford hearing. It can be ordered without affording an opportunity of hearing.

## *Conclusion*

Rule of natural justice has advanced by human progress. It has not developed from the Indian Constitution but rather from humankind itself. Each individual has the privilege to talk and be heard when charges are being put towards the person in question. The Latin maxim, "Audi Alteram Partem" is the standard of characteristic equity where each individual gets an opportunity of being heard. The significance of a proverb itself says no individual will be denounced unheard. Thus, judgement of a case will be not given in the absence of another party. There are numerous situations where this rule of natural justice is barred, and no opportunity is given to the party of being heard. Natural justice implies that equity ought to be given to both parties in a simple, reasonable and sensible way. Under the watchful eye of the Court, both the parties are equivalent and have an equivalent chance to speak and to prove themselves. Audi alteram partam is a wide concept than what it seems to be. It is one of the cardinal principles of the rules of natural justice

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rather it would be unjustified to think about natural justice without taking into account the concept of audi alteram partam. It mean right to fair hearing. This phrase though sounds simple but it embraces in itself the whole story of justice right from sending notice to post decisional hearing. Though, there are certain exceptions where this principle is not followed. But then these exceptions also have to be justified. There has to be a rational behind skipping this very concept which forms the very basis of the justice.

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