

# Natural Justice and Proportionality

April 7, 2023

**In news**– In its recent judgment, the Supreme Court upheld Media One's appeal on two procedural grounds, namely, principles of natural justice and proportionality.

## What are the principles of natural justice?

- Natural justice is an expression of English common law, and involves a procedural requirement of fairness.
- The principles of natural justice have great significance in the study of Administrative law. It is also known as substantial justice or fundamental justice or Universal justice or fair play in action.
- The principles of natural justice are not embodied rules and are not codified. They are judge made rules and are regarded as counterpart of the American procedural due process.
- This principle is based on the following rules-
  - No one should be a judge in his own cause.
  - Justice should not only be done, but manifestly and undoubtedly be seen to be done.
- The above rules make it clear that judiciary must be free from bias and should deliver pure and impartial justice. Judges must act judicially and decide the case without considering anything other than the principles of evidence.

## What did the court say on these principles?

- The bench allowed the challenge to the order of the Ministry of Information and Broadcasting (MIB) and judgment of the High Court on account of the **principles of natural justice constitutionalized by its judgment in its 1978 ruling in "Maneka Gandhi vs Union of India"**.

- The Court observed that “that there is an inherent value in securing compliance with the principles of natural justice independent of the outcome of the case.”
- The court held that **actions which violate procedural guarantees can be struck down even if non-compliance does not prejudice the outcome of the case.**
- It also stated that “the core of the principles of natural justice breathes reasonableness into procedure”.
- Additionally, the court clarified that in the present case, the burden is on the claimant to prove that the procedure followed infringes upon the core of procedural guarantees.
- **In its judgment, the court also observed that the duty to act fairly that is derived from common law is not exhaustively defined** in a set of concrete principles, and courts, in India and abroad, have demonstrated considerable flexibility in the application of the principles of natural justice by fine-tuning them to different situations.
- However, the court also added that such a concept of natural justice “cannot be put into a ‘straitjacket formula’” and is “incapable of a ‘precise definition’”.
- The Court asserted that Media One had proved that MBL’s right to a fair hearing “was infringed by the unreasoned order of the MIB dated 31 January 2022” and “the non-disclosure of relevant material to the appellants, and its disclosure solely to the court.”
- In such a situation, the burden shifts on the Centre to prove that the procedure that was followed was reasonable and in compliance with the requirements of Articles 14 and 21 of the Constitution, the court noted while adding that the standard of proportionality was used to test the reasonableness of the procedure in the present case.
- Finally, the court upheld its judgments in Ex-Armymen’s Protection Services and Digi Cable Network to hold that

while “principles of natural justice may be excluded when on the facts of the case, national security concerns outweigh the duty of fairness”, “the state has been unable to prove that these considerations arise in the present factual scenario.”

- The Court added that though confidentiality and national security are legitimate aims for the purpose of limiting procedural guarantee, a **“blanket immunity from disclosure of all investigative reports cannot be granted.”**

### **What is doctrine of proportionality?**

- Doctrine of proportionality finds its place in the Administrative Law and is **used at the stage of Judicial Review.**
- **The doctrine asserts that there must be a reasonable nexus between the desired result** and the measures taken to reach that goal.
- The action taken must not be shockingly disproportionate to the consciousness of the court and the said action can then be challenged by way of judicial review.
- It can be better understood with the help of an illustration. Let's say, if in a workplace some workers remain absent from their duty then the punishment for it must be proportional, that is, the employer may treat it as leave without pay and may warn them or may even levy a fine but to dismiss them from service permanently would be disproportional.
- Sir John Laws has described 'proportionality' as a principle where the court is concerned with the way in which the decision maker has ordered his priority.