CASE COMMENTARY ON AK KRAIPAK VS. UNION OF INDIA

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*In the case of **AK Kraipak Vs. Union of India**[1], the question of classification between pure administrative functions and quasi-judicial function came up before the Supreme Court and it is an important case of precedence because it affirms that no authority can be absolved of their duty to act fairly.*

BRIEF FACTS

In 1966, the Indian forest service was constituted, the selection for which was to be made from among the officers serving in the forest department of the State. The rule made under Section 2(A) of the All India Services Act, 1951 by the Central Government provided for setting up of a Special Selection Board whose function would be to recommend officers for selection to the central service and it was to be headed by the chief conservator of forest of that state. The final selections were to be made by the UPSC. In the state of Jammu & Kashmir, one Naquishbund was appointed as acting chief conservator of forest and hence was appointed as the ex-officio chairman of the Selection Committee. Two persons senior to him had been superseded and they had filed petitions against this to higher authorities regarding this. Meanwhile, the selection committee had to recommend names and it so happened that they recommended the names of person in which Naquishbund was included but excluding the two senior officers who had been superseded, who were all candidates to the Indian forest service. The recommendations of the Board were submitted to the UPSC. The recommendation was challenged on the ground that a person who had been recommended was the chairman of the board and that it had violated the requisites of fair hearing and apparently violated the principles of natural justice.

ISSUES

- Whether the principle of natural justice applied to administrative proceedings assuming that the present proceedings are administrative in nature?
- Whether there was a violation of such principles of natural justice in the present case?

COMMENTS

[1] AIR 1970 SC 150 : (1969) 2 SCC 262

Principles of natural justice are an expression used for describing the criteria of procedural fairness in the administrative process. They ensure that the decisions are taken objectively, impartially, without prejudice and aims at securing and imparting justice. Natural justice, like ultra vires and public policy, is a branch of the public law and is a formidable weapon which can be wielded to secure justice to the citizen. While it may be used to protect certain fundamental liberties, civil and political rights, it may be used as indeed it is used more often than not, to protect vested interests and to obstruct the path of progressive change[2]. The principles of natural justice occupy a unique place particularly in the field of administrative law because they provide the standards which focus attention on the important question that how far is it right for the courts to try to impart their own standards of justice to the administration. The two basic postulates of principles of natural justice are : *Nemo debet esse judex in propia causa* (no one can be judged in his own case) and *audi alteram partem* (Right to fair hearing) however it is important to remember that the rules of natural justice are not embodied rules.

In the instant case, the Court held that the basic principle of nemo judex in causa sua was violated as Naquishbund was a member of the selection board and though he did not participate in the deliberations of the board when his name was being considered, the very fact that he was a member of the selection board, nevertheless, holding the post of Chairman must have had a significant impact on the decision of the selection board and it is only logical to assume that he would have participated in the deliberations when the claims of his rivals, the senior officers, were considered. On this account, the Court concluded that Naquishbund could not have been unbiased and as bias vitiates equal opportunities, the recommendations of the committee were invalidated. With regards to the nature of the function that the Selection Boar has exercised, it is often difficult to demarcate administrative inquiries from quasi-judicial inquiries but it should be remembered that arriving at a just decision is the aim of any adjudicating and decision-making authority. In the case of State of Orissa v. Dr. (Miss)Binapani Dei[3], it was observed that it is not easy to draw the line that demarcates administrative enquiries from quasi-judicial enquiries. Enquiries which were considered administrative at one time are now being considered as quasi-judicial in character. Arriving at a just decision is the aim of both quasi-judicial enquiries as well as administrative enquiries. An unjust decision in an administrative enquiry may have more far reaching effect than a decision in a quasi-judicial enquiry. It was in this case that the Supreme Court had decided that Principles of Natural Justice were applicable not only to judicial and quasi-judicial functions, but also to administrative functions for the first time. The ruling in the instant case reflects significant change in the judicial thinking on the classification between administrative actions and

[2] Chinappa Reddy J, in Swadeshi Cotton Mills Vs. Union of India, (1981) 1 SCC 664
[3] 1967 AIR 1269

quasi-judicial actions and that the requisites of fair hearing would also be applicable to administrative functions. It is irrefutable that there is a line of distinction, howsoever thin, between quasi-judicial and administrative powers; however there is one element which ought to be applicable in both cases - that is, the duty to act fairly. Principles of natural justice of which the main constituents are that a person interested in the disposal of a matter one way or another should not act as a judge in his own case and that no one should be condemned unheard are applicable to the administrative actions in the same way that they are applicable to the as quasi judicial actions. As the court rightly observed in the instant case, there is simply no reason why these principles of natural justice shouldn't be applicable to administrative inquiries and it is simple illogical to allow administrative inquiries to be shielded from the application of principles of natural justice and allow the authorities to act arbitrarily. This court has rightly held that the administrative authorities also ought to comply with certain rules and principles of natural justice to lend credence to his decision.

This case is indeed a landmark in the field of Indian administrative law and a step forward to strengthening the rule of law in this country. The researcher concludes with the words of Krishna Iyer J. – "Once we understand the soul of the rule as fair play in action-and it is so'-We must hold that it extends to both the fields. After all, administrative power in a democratic set-up is not allergic to fairness in action and discretionary executive justice cannot degenerate into unilateral injustice."[4]

[4] Mohinder Singh Gill & Anr Vs The Chief Election Commissioner, 1978 AIR 851:1978 SCR (3) 272