

EVOLUTION OF NATURAL JUSTICE IN
MANEKA GANDHI V. UNION OF INDIA

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ABSTRACT:-

This research paper contains a brief note of evolution of natural justice in Maneka Gandhi v. Union of India (1978) 1 SCC 248: AIR 1978 SC 597: (1970) 2 SCR 621. The following case was a turning point in the interpretation of the right to life and personal liberty enshrined in Article 21 of the constitution. The researcher will deal with the nature and ambit of article 14 of the constitution. Section 10(3) © of the Passport's Act, 1967 is dealt in the article. In this paper researcher will show how section 10(3) © of Passport's Act is violative of Article 14 of the constitution. Article 19(a) and 19(g) of the constitution i.e the right to go abroad will also be covered in the paper. The researcher will also explain about the confinement of freedom of speech and expression to the territory of India.

KEYWORDS : Natural Justice, Maneka Gandhi v. Union of India, Right to life, Personal Liberty, Article 21 of constitution, Article 14 of constitution, Section 10(3) © of Passport's Act, Article 19(a) and 19(g), freedom of speech and expression.

INTRODUCTION

Natural Justice:-

It has been expressed that there is no single meaning of Natural Justice and it is just conceivable to count with some absolutely the fundamental standards. Amid the prior days the articulation common equity was regularly utilized conversely with the articulation common Law, however in the ongoing circumstances a limited significance has been given to depict certain tenets of Judicial Procedure.

There are a few choice of the Hon^{ble} Supreme Court which are adequate to condense and clarify the two basic components of Natural Justice to be specific:-

- a. No man will be Judge in his own motivation
- b. The two sides will be heard, or audi alteram partem

Natural Justice is another name of commonsense Justice. Rules of Natural Justice are not systematized groups. But they are standards imbued into the still, small voice of man. Natural Justice is the organization of Justice in a judicious liberal way. Justice is construct generously with respect to regular Justice is based significantly on regular beliefs and human qualities. The organization of Justice is to be liberated from the thin and limited contemplations which are normally connected with a detailed law including etymological details and linguistic comforts. It is the substance of Justice which needs to decide its shape. The articulations “Natural Justice” and “Legal Justice” don’t introduce a water tight order.

According to Dicey,

“The right to personal liberty as understood in England means in substance a person’s right not to be subjected to imprisonment, arrest, or other physical coercion in any manner that does not admit of legal justification.”

The decision of the supreme court of India in “Maneka Gandhi V. Union of India was an ‘inflexion point’ in the court’s movement towards a broader interpretation of the fundamental rights guaranteed by the constitution. The circumstances that set the stage for the “Maneka Gandhi judgement in 1978 are important. The national emergency, which was declared by President Fakhurddin Ali Ahmed in 1975 and was characterized by strict censorship and detention of political prisoners, had recently ended.

Historical Background:-

The Maneka Gandhi case emerged in the period quickly following the finish of the national Emergency in India, with the Janata party government expecting power in 1977. Maneka Gandhi, little girl in - law of previous Prime Minister Indira Gandhi and originator editorial manager of a political magazine Surya, was issued an international ID in 1976 under the Passports Act. Not long after the congress party was removed by the Janata party, she started utilizing Surya as a political stage to reestablish the new government. (The most outstanding occurrence of this was when Surya conveyed photos demonstrating the child of then guard serve Jagjivan Ram participating in sex with an understudy of Delhi University.) In 1977, around the time she wished to leave India to satisfy a talking commitment.

Maneka Gandhi got a letter expressing a letter expressing that the Government of India had chosen to seize her travel permit in broad daylight enthusiasm under Section 10 (3) (c) of the

Passports Act. The administration turned down her demand looking for the reasons why the request had been passed, expressing that it was not 'in light of a legitimate concern for the overall population'. In response, she documented a writ appeal to in the Supreme court testing the international IDs seizing request of the administration of India and its ensuing refusal to give motivation to the same.

Brief Facts of the case:-

On the 4th of July, 1977, Smt. Maneka Gandhi received a letter from the Regional Passport Office, Delhi, asking her to submit her passport (No. K-869668) within seven days from the day on which she had received such letter, i.e. before 11th July 1977. The letter stated that it had been the decision of the Government of India to impound her passport under Section 10 (3) (c) of the Passport Act 1967. The grounds for such an impounding, as told to her, was "public interest." Smt. Maneka Gandhi immediately sent a letter to the Regional Passport Officer, inquiring about the grounds on which her passport had been impounded. She also requested him to provide a copy of the 'Statement of Reasons' for making of such an order. The reply sent by the Ministry of External Affairs was that it was the decision of the Government of India to impound the passport in the interest of the general public. Also, there were orders to not issue her a copy of the Statement of Reasons. Smt. Maneka Gandhi thus filed a petition with regards to the matter.¹

Judgment of the case:-

It was held that Section 10(3)(c) of the Passport Act presents obscure and vague power on the international ID specialists, it is violative of Article 14 of the Constitution since it doesn't accommodate an open door for the distressed party to be heard. It was likewise held violative of Article 21 since it doesn't insist to "methodology" as said in the condition, and the present technique performed was the most noticeably awful conceivable one. The Court, be that as it may, ceased from passing any formal answer on the issue, and decided that the travel permit would stay with the specialists till they esteem fit.

Ratio Decendi of the case:-

Ratio Decidendi is usually characterized as the purposes behind the judgment. It fundamentally alludes to the material piece of the judgment without which the judge would have been not able reach to the present finish of the case.

¹ <https://www.lawfarm.in/blogs/a-case-analysis-of-the-maneka-gandhi-case>

Before expressing the proportion of the case and the purposes behind the same, allows first take a gander at Section 10(3) (c) of the Passports Act 1967 – "if the identification specialist considers it essential so to do in light of a legitimate concern for the power and honesty of India, the security of India, well-disposed relations of India with any outside nation, or in light of a legitimate concern for the overall population;"

Following is the proportion of the case, with an examination of the same –

1. **Section 10(3)(c) of the Passport Act is violative of Article 14 of the Indian Constitution** –

Article 14 of the Constitution discusses uniformity under the watchful eye of law. This arrangement is totally against assertion or dubiousness of any kind to the extent the activities of the official are concerned. Segment 10(3)(c) of the Passports Act presents boundless powers on the international ID specialists. Since it is unclear in its wordings, the use of such an arrangement has not been plainly characterized in the Act. Along these lines, this leaves a great deal of degree for the official to decipher it in whichever way they need, and subsequently escape with a considerable measure of activities under the appearance of fluctuated understanding.¹

The arrangement likewise prompts mediation in the activities of the official. The discretion originates from the way that it is totally in the hands of the identification specialists to choose whether or not, and how to continue in a specific case. The words 'esteems it essential' give the international ID specialists finish flexibility to act in whichever way they need, and in whichever cases they need. In this way there is no consistency or sensibility in the activities of the identification specialists, and their activities could vary from ease to case.

2. **Infringement of the Principle of Natural Justice: The Audi Alteram Partem Rule**

The audi alteram partem lead is one of the three standards of common equity, and structures an imperative part in characterizing the legality and reasonableness of any technique. The strict interpretation of audi alteram partem is "hear the opposite side". In a layman's dialect it essentially implies that both the sides ought to be given the chance to display their case before a choice is planned for the case. In the present case, Maneka Gandhi was denied explanations behind the seizing of her international ID, which is unreasonable since each individual has the privilege to know the grounds on which any official move is being made

against him/her. Additionally, she was never allowed to exhibit her own particular case before the specialists. The rule of *audi alteram partem* requires that before the last request for the appropriating of her travel permit was passed, Smt. Maneka Gandhi ought to have been allowed to approach the specialists and to uncover her piece of the story with the goal that the request for seizing of the international ID would have been simply. There is dependably the likelihood of landing at an uneven conclusion when just a single gathering has been heard and the other is denied that opportunity. Along these lines to keep the requests totally target and free from inclination, it is completely basic that the two gatherings to a circumstance must be allowed to advance their side of the story. In the present case, amid the Court procedures itself, the travel permit experts at last surrendered to the way that they had been off-base in not giving Smt. Maneka Gandhi an opportunity to display her case. In this way, they eventually consented to withhold the request and allow her to exhibit her case before the concerned specialists. Yet, what is vital to note is that the specialists had been held wrong in any case, and just to relieve the fault had they acknowledged to give her present her a chance to case. The last difference in occasions kept them from being held at risk. Else, they were unquestionably in the wrong and even the Court had held that their activity had been subjective and in opposition to the standards of common equity.

3. Section 10(3)(c) not Violative of Article 19(1)(A) and Article 19(1)(g) of the Constitution:-

Article 19(1) (a) of the Constitution discusses the right to speak freely and articulation ensured to all natives of the nation. Article 19(1) (g), then again, discusses opportunity to complete any exchange and calling.ⁱⁱ Smt. Maneka Gandhi had asserted that the request to seize her international ID likewise disregards these two privileges of hers. She claimed that the right to speak freely and articulation likewise incorporates into its ambit the privilege to venture out abroad to communicate among the general population of different countries. Consequently as indicated by her, the right to speak freely and articulation likewise incorporated the privilege to travel to another country to blend with individuals, to complete a trade of thoughts, to have the capacity to talk with the general population of different countries, and subsequently to have the capacity to uninhibitedly talk and communicate outside India also. Presently since she had been denied the privilege to movement out of India because of the appropriating of her visa, she affirmed that her entitlement to the right to speak freely and articulation had been disregarded. A similar way, she said that since she was a

columnist, it was a piece of her calling to movement to various parts of the world, to cover news issues. Consequently by denying her chance to movement abroad, the identification experts had abused her privilege of exchange and calling. It was held by the Court that despite the fact that the previously mentioned disputes were right and that such a request would in actuality add up to infringement of Article 19(1) (a) and 19(1) (g), there was nothing to demonstrate that Ms. Gandhi was booked to movement on an official visit at the time the denounced arrange was passed and her travel permit was appropriated. Nor was there anything to demonstrate that she had some sincere need to movement abroad towards acknowledgment of her privilege of articulation under article 19(1), for e.g. Open talking, moving, writing, craftsmanship, etc. Thus this contention was rejected and the request was not held to be violative of Articles 19(1) (a) and 19(1)(g). In any case, the Court went on to clear up that if anytime of time later on she was denied her international ID from the administration when she needed or needed to set out abroad to practice both of the two rights under 19(1)(a) and 19(1)(g) and the administration denied such rights it is thought to be an encroachment of these two major rights.

4. **The request is violative of Article 21 of the Indian Constitution:**

On account of *Satwant Singh Sawhney v. D. Ramarathnam*, Assistant Passport Officer, Government of India, New Delhi and Ors, the Supreme Court held by a larger part judgment that the articulation 'individual freedom' in Article 21 takes morally justified of headway and travel abroad, and under Article 21 no individual can be denied of his entitlement to travel to another country with the exception of as per the method set up by law. This choice was acknowledged by the Parliament and the illness brought up by it was set appropriate by the institution of the Passports Act, 1967. Remembering this right, Smt. Maneka Gandhi affirmed that her entitlement to movement abroad had been disregarded by the travel permit experts. Likewise, the provision discussing 'technique set up by law' was fought in that the strategy embraced for this situation was subjective and out of line. Maneka Gandhi challenged that the system in this specific case was violative of the *audi alteram partem* rule; it was self-assertive in that she was prevented the announcement from securing explanations behind the appropriating of her identification; and it was additionally violative of her principal rights since she was being denied the privilege to movement abroad under Article 21, without being given substantial purposes behind the same. To the extent the procedural disparity was concerned, the lawyer for the administration acknowledged the way that the activities had

been subjective and subsequently she was allowed to advance her disputes. In this manner that abnormality was dealt with. To the extent the topic of her key rights was concerned, it was held that genuine her principal right had been abused, however it was in light of a legitimate concern for the overall population. The Court has embraced a liberal elucidation of Article 21 for the situation, and extended its ambit significantly. In any case, the Court has abstained from completely remarking on this issue in this specific case.

Post Maneka Gandhi : New Dimension

In Maneka Gandhi's case, the importance and substance of the words 'personal liberty' again came up for the thought of the Supreme court. For this situation, the solicitor's visa had been seized by the central government u/s 10(3)(c) of the Passport Act, 1967.ⁱⁱⁱ Here, the Supreme Court not just overruled A.K. Gopalan's case yet additionally broadened the extent of words 'individual freedom' significantly. Bhagwati, J. watched:

"The articulation 'personal liberty' in Article 21 is of most stretched out abundance and it covers a variety of rights which go to constitute the individual freedom of man and some of them have raised to the status of unmistakable essential rights and given extra security under Article 19." As for the connection between Art. 19 and Art. 21, the court held that Art. 21 are controlled by Art. 19, i.e., it must fulfill the necessity of Art. 19. The Court watched:-

"The law should hence now be settled that Article 21 does not prohibit Article 19 and that regardless of whether there is a law recommending a strategy for denying a man of individual freedom, and there is subsequently no encroachment of the essential right presented by Article such a law in so far as it compresses or takes away any basic directly under Article 19 would need to address the difficulties of that Article." In this way a law "denying a man of 'individual freedom' has to stand the test" of Article 21 as well as it must stand the trial of Art. 19 and Art. 14 of the constitution.

The lasting impact of Maneka Gandhi:-

Despite the fact that the Maneka Gandhi judgment for all time took away the freedom of the council, it confronted practically zero antagonistic vibe from any of the branches of the administration, not at all like different judgements in a similar period. In more than three decades since the judgment, the privilege to life and individual freedom under Article 21 has

slowly turned into a store of human rights and basic opportunities in India.

Conclusion:-

Hence, it might be said that Maneka Gandhi's case, gave the expression "personal liberty" most extensive conceivable translation and offered impact to the aim of the drafters of the constitution. This case, while adding a radical new measurement to the idea of "personal liberty", stretched out the insurance of Art.14 to the individual freedom of every individual and extra assurance of Art.19 to the individual freedom of each subject.



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