CHAPTER-VIII

CONCLUSION & SUGGESTIONS

Natural justice has achieved in England something like the status of a fundamental right why in India it has been implied in the fundamental right. H.W.R. Wade\(^1\) has specifically mentioned that

"On the other hand it must be a flexible principle. The judges emphasis that it is not possible to lay down rigid rules as to where the principles of natural justice are to apply nor as to their scope and extent. Everything depends upon the subject matter. In the application of concept of fair play there must be real flexibility and there must also have been some real prejudice to the complainant. There is no such thing as a merely technical infringement of natural justice."

In the years since Ridge v. Baldwin\(^2\) was decided, the rules of natural justice have been applied to bodies and tribunals which, before 1964 would not have been thought subject to such controls and recent decisions and dicta suggest a concern on the part of the courts that litigation may be seeking to push the protection given by these standards of procedural behaviour too far.

Lord Denning M.R. in R. v. Secretary of State for Home Department, ex p. Mughal\(^3\) said that

\(^{1}\) H.W.R. WADE, Administrative Law, p. 532  
\(^{2}\) (1964) A.C. 40  
\(^{3}\) [1974] Q.B. 313, 325
"the rules of natural justice must not be stretched too far. Only too often the people who have done wrong seek to invoke the principles of natural justice in order to avoid the consequences and such type of ground should be treated with great suspicion so that the principles of natural justice may not be extended. The justification in many cases for a hearing is, precisely, because the seemingly guilty are revealed to be innocent."

The concepts of natural justice and the duty to be fair must not be allowed to discredit themselves by making unreasonable requirements and imposing undue burdens.

Judicial control may be possible and appropriate where an expert is obviously behaving capriciously and arbitrarily as in case of Nagle v. Feilden and the availability of domestic remedies should not necessarily debar a litigant from the courts where their presence may render reasonable non-interference with a decision by the courts which in other circumstances would have been unreasonable. An individual should have an opportunity of fair hearing before his reputation is so damaged. Fuller has drawn a similar distinction in suggesting and justifying the use of different procedures to impose penalties and grant awards.

"At the level where honors and prizes become appropriate we see that there would be little sense and a good deal of hypocrisy in surrounding decision that is essentially subjective and intuitive with the procedure appropriate to the trial of a law suit"

4. [1966] Q.B. 633
which pertains to The Morality of Law\textsuperscript{5}

Once attention is fixed on the gravity of consequences as the test for the applicability of natural justice, it will be clearly seen that less importance should be attached to such tests as "a duty to act judicially" or the distinction between right and privilege. This approach is to be found in cases such as Nagle v. Feilden\textsuperscript{6} where the Court of Appeal distinguished between social clubs and on the other hand, associations which exercise a virtual monopoly in an important field of human activity. If Parliament believes that the number of complaint under the Race Relations Act 1976 and the Sex Determination Act 1975 amount to statutory recognition of the right not to be denied one's hope of entering into a contract on the grounds of racial origin or sex, it will not be too many to handle the situation, then the Courts if they think natural justice is applicable to the type of case being discussed, by arguments based on practical convenience and the fear of a multitude of actions. It will be interesting to speculate that the English Courts will be prepared to extend the scope of natural justice to include requirements not so far recognized as forming part of the concept. However, this rule is self-evident and elementary principle that natural justice require that a party must be told

\textsuperscript{5} (1964) Yale U.P. p31
\textsuperscript{6} [1966] Q.B. 633
of his rights to a hearing so that the party may include a right to legal representation as in case of **Miranda v. Arizona**⁷ & in an English Case of **Hoggard v. Worsborough U.D.C.**⁸ where Winn J. held that the decision infringed natural justice,

"Where two parties are in dispute and it is the obligation of some person or body to decide equitably between the competing claims, each claim must receive consideration and each claimant must be invited to put forward his claim which he desires to be considered."

A novel extension of the concept was essayed by **Lord Denning M.R.** in **R v. Barnsley Metropolitan Borough Council ex. p. Hook**⁹ when he suggested (at p.1057) that the imposition of excessive punishment was a breach of natural justice. Such a rule if recognized, would enable the Courts to interfere with any decision which they disliked and goes far beyond any idea of natural justice as a standard for the application of rules and a slightly less sweeping approach is not an extension of natural justice so much as and extension of the grounds for judicial review is to be found in **Esterman v. NALGO**¹⁰ where Justice Templeman held that the Court could set-aside the decision of a domestic

---

7. 384 U.S. 436 (1966)
8. (1962) 2 Q.B. 93
9. [1976] 1 W.L.R. 1052
tribunal if satisfied that no tribunal applying itself correctly as to the law and obeying the principles of natural justice could arrive at the decision which is mentioned at p.632 in the book of Labour and Law written by Sir Otto Kahn-Freund.

Rule against bias is very important that arising from financial interest and arising from such causes as a relation to the party or witness. Rule against bias and its impact on Judiciary has been discussed in detail along with the recent cases of natural justice in bias applicable to the present thesis. In the present circumstances, the Courts in England, USA and India give special recommendations to the principles of natural justice along with involvement of biasness.

The Chapter-I devoted to Principle and Essential Elements of Natural Justice and Role of Judiciary have been explained from pages 1 to 101 along with recent decided cases in Apex Courts. There are several decisions of the Hon’ble Supreme Court, which are sufficient to summarize and explain to essential elements of natural justice namely “No man shall be judge in his own cause and both sides shall be heard” or (audi alteram partem). The parties to a proceedings must have due notice to when the Court/Tribunal will proceed and the Court/Tribunal must act honestly and impartially and not under the dictation of other persons to whom authority is not given by Law. These two elements are extensions or refinements of the two main principles stated above. The
truth is that justice is a very elaborate conception, the growth of many centuries of civilization; and even now the conception differs widely in countries usually described as civilized.

In the case of Tulsirram Patel the Supreme Court considered the issue as to how the principles of natural justice had been interpreted by Courts and within what limits are they to be confined. It was stated that by a process of judicial interpretation two rules have been evolved representing the principles of natural justice in judicial process, including therein quasi judicial and administrative process. They being no man shall be a Judge in his own cause and hear the other side – Audi Alteram Partem. From the above two rules a corollary has been deduced namely that he who shall decide anything without the other side having been heard, although he may have said what is right, will not have done what is right, in other words has it is how expressed, Justice should not only be done but should manifestly be seem to be done.

In recent time the concept of Natural Justice has undergone a great deal of change. In the sense that what particular rule of Natural Justice to be applied depends upon the facts of that case, the statute governing the issue etc. The old distinction between an Administrative Act and Judicial Act does not survive any longer. Every Administrative order which involves civil consequences must follow the rules of Natural Justice. The Hon’ble Supreme Court has held that in the absence of a
notice and reasonable opportunity to a person to meet the case against him, the order passed becomes wholly vitiated. Having held so the Principles of Natural Justice have been interpreted by the Hon’ble Supreme Court prescribing the limits to which they are to be confined.

This rule of natural justice intents to prevent the authority from acting arbitrarily affecting the rights of the concerned person. Duty to give reasonable opportunity to be heard will be implied from the nature of the functions to be performed by the authorities which has the power to take punitive or damaging action. Even executive authorities which take administrative action involving any deprivation or restriction on inherent fundamental rights of citizen, must take care that justice is not only done but manifestly appears to be done. However, there is nothing like public inquiries system in India as in England. Vast discretionary and arbitrary powers are vested in the authorities, which are exercised without regard to the principles of the natural justice, progress to arts tribunalisation and inquiry system is painfully slow in India.

It should be noted that this principle of natural justice provides procedural safeguard against arbitrary administrative adjudication. Justice will deemed to be denied. If a person against whom justice has been invoked, has no opportunity to put his defence forward. In the words of Prof. Robson “of all the characteristics of judicial function, none is more essential than the right to hearing. The safeguard
of civil liberty finds expression in few principles of greater importance according to English notions than that embodied in the maxim that every man is entitled to his way in his court”.

The right to a fair hearing requires that an individual shall not be penalised by a decision affecting his rights or legitimate expectations unless he has been given prior notice of the case against him, a fair opportunity to answer it and the opportunity to present his own case. Each individual must have the opportunity to present his version of the facts and to make submissions on the relevant principles of the Code of Conduct and the allegations against him. The right to a fair hearing involves Prior notice of the hearing, opportunity to be heard, conduct of the hearing, right to legal representation and the decision and the reasons for it.

The two main aspects of rule against bias are that a person adjudicating on a dispute must have no pecuniary or proprietary interest in the outcome of the proceedings and must not reasonably be suspected, or show a real likelihood, of bias. The Adjudicator must be able to show that he has conducted a full enquiry into the circumstances involved before making his decision as to whether a breach of the Rules of Conduct has occurred and, if so, what sanction should be imposed. There should be no suggestion in his conduct of the hearing that prior to its commencement he has irrevocably decided the outcome. But before
entering into implications of the doctrine of natural justice, it is necessary
to explain the historical basis of importing this doctrine to test the validity
of the decisions of administrative tribunals. It should be pointed out that
the initial application of the doctrine of natural justice was to “Courts” i.e.
to say, in respect of judicial functions and it is from that sphere that the
doctrine has been extended to statutory authorities or tribunals exercising
“quasi-judicial” functions and later, to any administrative authority who
has the function of determining civil rights or obligations. In England
where there are no written guarantees of rights as in India or the U.S.A., it
is controlled by common law principles of natural justice.

These principles of natural justice are treated as a part of the
Constitutional guarantee contained in Art. 14 and the violation of these
principles by the administrative authorities is taken as violation of Art 14.
Actually the concept of quasi-judicial, natural justice and fairness all have
been developed to control the administrative action. The object has been
to secure justice and prevent miscarriage of justice. The concept of rule
of law would have its importance if the administrative authorities are not
charged with the duty of discharging their functions in fair and just
manner. Art 14 & 21 have strengthened the concept of natural justice.
Art. 14 applies not only to discriminatory class legislation but also to
discriminatory or arbitrary state action. Violation of the principle of
natural justice results in arbitrariness and, therefore, its results in the
violation of Art. 14. Art. 21 requires substantive and procedural due process and it provides that no person shall be deprived of his life or person liberty except according to the procedure established by law. The procedure prescribed for deprivation of person liberty must be reasonable, fair, just and a procedure to be reasonable, fair and just must embody the principle of natural justice. A procedure which does not embody the principles of natural justice cannot be treated as reasonable, just and fair.

As regards the application of the principles of natural justice the distinction between quasi-judicial and administrative order has gradually become thin and now it is totally eclipsed and obliterated. The aim of the rules of natural justice is to secure justice or put it negatively to prevent miscarriage of justice and these rules operate in are not covered by law validly made or expressly excluded. The rules of natural justice would apply unless excluded expressly or by implication.

However, there are certain exceptions to this general rule where the requirement of natural justice is excluded by statutory provisions and by constitutional provisions. This rule of natural justice is also excluded in case of legislative acts, in case of public interest, in case of emergency or necessity, in case of confidentiality, in case of academic adjudication, in case of fraud, excluded on the ground of impartibility, excluded when no right of the person is infringed, excluded in case of interim preventive action. Recent decided cases of natural justice of Apex
Courts have been given in detail in this Chapter-I from pages 87 to 101 in order to justify natural justice and development of rule against bias in India alongwith role of judiciary.

The Chapter-II Development of Rule against Bias in India – Role of Judiciary from pages 102 to 151 have been explained alongwith recent cases of biasness. Nemo in propria causa judex, esse debet, i.e.; no one should be made a judge in his own cause. It is popularly known as the rule against bias. It is the minimal requirement of the natural justice that the authority giving decision must be composed of impartial persons acting fairly, without prejudice and bias. Bias means an operative prejudice, whether conscious or unconscious, as result of some preconceived opinion or predisposition, in relation to a party or an issue. Dictionary meaning of the term “bias” suggests anything which tends a person to decide a case other than on the basis of evidences.

The rule against bias strikes against those factors which may improperly influence a judge against arriving at a decision in a particular case. This rule is based on the premises that it is against the human psychology to decide a case against his own interest. The basic objective of this rule is to ensure public confidence in the impartiality of the administrative adjudicatory process, for as per Lord Hewart CJ, in R.v. Sussex, “justice should not only be done, but also manifestly and undoubtedly seen to be done. A decision which is a result of bias is a
nullity and the trial is “Coram non judice”. From the above discussions the broad principles of ‘Natural Justice’ may be summarized that every person whose right is affected, must have a reasonable notice of the case he has to meet and that he must have a reasonable opportunity of being heard and that there must be a impartial tribunal.

The recent decided cases of Apex Courts in India relating to the principle of rule against bias has been discussed in detail from pages 115 to 151 in order to justify development of rule against bias in India alongwith role of judiciary.

Similarly the Chapter-III from pages 152 to 183 Rule against Bias and its Types have been explained giving emphasis on very types of biasness and their impact on judiciary alongwith recent Court cases of Hon’ble Apex Courts. According to the 'Lectric Law Library's Lexicon, “Any mental condition that would prevent a judge or juror from being fair and impartial is called bias. A particular influential power which sways the judgment; the inclination or propensity of the mind towards a particular object. It may be ground for disqualification of the judge or juror in question.” It is also defined as, “A predisposition or a preconceived opinion that prevents a person from impartially evaluating facts that have been presented for determination; a prejudice.”

There are three types of bias discuss in this Chapter. The first of the three disabling types of bias is bias on the subject matter. But
it is only rarely that proceedings will be vitiated due to this type of bias. For example, a Magistrate who subscribed to the Royal Society for the Prevention of Cruelty to Animals was held not to be disqualified from trying a charge brought by that body of cruelty to a horse. ‘A mere general interest in the general object to be pursued would not disqualify,’ said Field J. There must be some direct connection with the litigation. If there is such prejudice on the subject-matter that the court has reached fixed and unalterable conclusions not founded on reason or understanding, so that there is not a fair hearing, that is bias of which the courts will take account. For example a justice announced his intention of convicting anyone coming before him on a charge of supplying liquor after the permitted hours. Naturally, there can be little hope of a fair trial at the hands of such a judge.

Secondly, a pecuniary interest, however, slight will disqualify, even though it is not proved that the decision is in any way affected. The third type of bias is personal bias. A judge may be a relative, friend or business associate of a party, or he may be personally hostile as a result of events happening either before or during the course of a trial. The courts have not been consistent in laying down when bias of this type will invalidate a hearing.

However, we have suggested and concluded in this Chapter, a famous dictum of Lord Hewart that “justice should not only be done,
but should manifestly and undoubtedly be seen to be done. A man may be disqualified from sitting in a judicial capacity on one of the two grounds. First, a “direct pecuniary interest” in the subject matter. Second, “bias” in favour of one side or the other. Lord Denning has observed in The Discipline of Law that, “If a disqualified person takes part in a decision, it is a Nullity and void”.

Then Chapter-IV devoted to Personal Bias from pages 184 to 221 including all the recent decided cases of the Apex Courts in India have been discussed in detail related to personal bias which may be taken to mean a person feeling in favour of or against a party to the dispute or it may arise from a certain relationship between the adjudicating authority and one of the parties. The sphere of adjudication of administrative and other actions on the ground of personal bias, unlike that of pecuniary and other bias, is not enclosed. That is why cases where personal bias is urged as ground for setting aside the decisions are numerous. Personal bias reflects in various forms in adjudication. The adjudicator may be a friend or a relative of the party or may have some business or professional relationship with him or may have some personal animosity or hostility.

The principle evolves from the fact that general human weakness that where the person has his interest in the subject matter it is generally not expected that he would completely overpower the common temptation to act in favour of oneself and even if such person will act
with least regard to his personal interest, his acting in such position will not ensue any confidence in the general public that the adjudicator, who has an interest in the issue, has decided neutrally. Therefore demand of justice is that the rule shall not only affect the decision where the adjudicator is party but also where he has some interest. What are the factors that can be taken as to cause of apprehension of bias cannot be listed exhaustingly in judicial decisions.

If a reasonable person who has no knowledge of the matter beyond knowledge of relationship which subsisted between some members of the tribunal and one of the parties would think that there might well be bias then there is in his opinion a real likelihood of bias. Of course, some one else with inside knowledge of the characters of the members in question might say: although things do not look well, in fact there is no real likelihood of bias. That however would be beside the point, because the question is not whether tribunal will in fact be biased but whether a reasonable man with no inside knowledge might well think that it might be biased.

It is held that due to presence of Lord Hoffmann as one of the member of the bench, which heard the appeal of senator Pinochet, and his relation with Amnesty International, there is appearance of bias. Where a prosecution for selling vegetable underweight to the local authority's school was heard before a Magistrate who was a member of
the authority's education committee, the conviction was quashed. Where a judge had expressed himself vigorously but properly in a law journal article on the legal issues that subsequently arise before him he had crossed the "ill defined line" and the court of appeal concluded that there was a real danger that a lay observer with knowledge of the fact would not have excluded the possibility of conscious bias. If disclosure is made, full disclosure must be made. If there has been partial disclosure and the litigant learns that this is the position, this naturally is likely to excite suspicion in the mind of the litigant concerned even though these concerns are unjustified.

The Supreme Court of India considered a very interesting fact in case of A.K. Kraipk v. Union of India. Naquishbund, who was member of the Board for selection of the officers to the Indian Forest Services, was also one of the candidates seeking to be selected. He did not sit in the selection Board at the time his name was considered for selection but he did sit in the board and participated in its deliberation while names of his rivals were considered for selection. He also participated in the deliberation of the Board while preparing the list of selected candidates. Hegde J speaking for the Court said:

It is against all canons of justice to make a man a judge in his own cause. It is true that he did not participate in deliberations of the committee when his name was considered. But then the very fact that he
was a member of the selection board must have its own impact on the
decision of the selection board. Further, admittedly he participated in the
deliberation of the selection board when the claims of his rivals were
considered. He was also party to the preparation of list of selected
candidates in order of performance. At every stage of his participation in
the deliberation of the selection, there was a conflict between his interest
and duty. Under those circumstances it is difficult to believe that he could
have been impartial. The real question is not whether he was biased. It is
difficult to prove the state of mind of a person. Therefore, what we have
to see is whether there is reasonable ground for believing that he was
likely to have been biased. We agree with the Ld. Attorney-General that a
mere suspicion of bias is not sufficient. There must be reasonable
likelihood of bias. In deciding the question of bias we have to take into
consideration human probability as an ordinary course of human conduct.
It was in the interest of Naquishbund to keep out his rivals in order to
secure his position from further challenge. Naturally he was also
interested in safeguarding his position while preparing the list of selected
candidates.

Personal bias may be taken to mean a person feeling in
favour of or against a party to the dispute. It may arise from friendship or
enimical terms between the adjudicator and the party or parties to the
dispute. Personal bias arises from a certain relationship between the
adjudicating authority and one of the parties. In other words personal bias arises where an adjudicatory authority is interested in one of the parties either directly as a party or indirectly as being relating to one of the parties. Whenever there is any allegation of personal bias, the important question which should be satisfied “Is there in the mind of the litigant a reasonable apprehension that he would not get a fair trial?” as in case of Cottle v. Cottle.

The Hon’ble Supreme Court observed on the ground of personal bias vide quashing the order of Government of canceling the company’s licence in an important decided case Mineral Development Limited v. State of Bihar which is a typical case of personal bias

"Tribunals or authorities who are entrusted with quasi-judicial functions are as such bound by the relevant principles governing the 'doctrine of bias' as any other judicial tribunal. The principles governing the doctrine of bias vis-a-vis judicial tribunal are well settled and they are no man shall be a judge in his own case and Justice should not only be done but manifestly and undoubtedly same to be done.

The two maxims yield result that if a member of judicial body is subject to a bias whether personal or financial, in favour of or against, any party to the dispute or is in such a position that a bias must be assumed to exists, he ought not take part in the decision or sit on the tribunal and that any direct personal or pecuniary interest, however, small in the subject matter of inquiry will disqualify a judge and any interest, though not pecuniary, will have the same effect if it is sufficiently substantial to create a reasonable suspicion of bias."
We have suggested and concluded in this Chapter that a great harm is caused when your Personal Bias is leaked into your professional/private relationship. It requires an honest and sincere assessment of our professional actions, behaviors and communication. Expression ‘mala fide’ has a definite significance in legal phraseology and the same cannot possibly emanate out of fanciful imagination or even apprehension but there must be existing definite evidence of bias and actions which cannot be attributed to be otherwise bonafide actions. Action not otherwise bonafide however, themselves would not amount to be mala fide unless the same is in a accompaniment with some other factor which would depict a bad motive or intent on the part of doer of the act.

The Chapter-V devoted to Pecuniary Bias from pages 222 to 241 has been explained in detail, which arises when the adjudicator has monitory or financial interest in the subject matter of dispute. Such adjudicator be disqualified from adjudication how so ever small it may be. The recent cases of Apex Courts have been explained in support of this biasness. If a person has a pecuniary interest, such interest even if very small, disqualifies such person. For appreciating a case of personal bias or bias to the subject matter the test is whether there was a real likelihood of bias even though such bias has not in fact taken place. de Smith in his judicial Review of Administrative Action has observed that a
real likelihood of bias means at least substantial possibility of bias. The Supreme Court, in a recent case, has classified bias under three Heads:

1. A Legal interest, which means that a judge is in such a position that bias must be assumed;
2. Pecuniary Bias;
3. Personal Bias.

Besides the above-mentioned types of bias some more forms of bias have come up for consideration before the courts and the court have passed appropriate order in such cases. Such biases are: Pecuniary Bias; Personal Bias; Departmental Bias; Policy Bias and Judicial Obstinacy. Pecuniary bias clarify that there is a presumption that any direct finance interest, however small, in the matter in dispute, disqualifies the person from adjudicating. Membership of a company, an association or other organization in which he is financially interested may operate as a bar to adjudicate, whereas mere bare liability to cost where the decision itself will involve no pecuniary loss will not.

A distinction is made between actual bias and apparent bias. Actual bias is rarely established, but clearly provides ground for removal. More often there is suspicion of bias, which has been variously described as apparent or unconscious or imputed bias. In such majority cases, it is often emphasized that the challenger does not go so far as to suggest the arbitrator is actually biased, rather than some form of objective apprehension of bias exist, as Russell said about the applicability of rule
against bias in arbitration proceedings. Similarly about pecuniary bias in arbitration proceeding Russell said that there is an automatic disqualification of an arbitrator who has a direct pecuniary interest in one of the parties or is otherwise so closely connected with the party that can truly be said to be a judge in his own cause. It is settled position of law in UK and in India also that where there is a pecuniary interest involved on the part of adjudicator or any company or association or any financial institution to which such adjudicator is closely associated, the person so placed shall be automatically disqualified from enjoying such position. It is immaterial that how trivial is the financial interest involved.

The effect of Mulvihill is problematic. Strictly speaking, all that it establishes is that no direct pecuniary interest arises where a trial judge in the Crown Court owns shares in a company which is the victim of the defendant who is appearing before him. However, there is a clear indication, albeit falling short of an unequivocal finding, that the position would be different for lay magistrates. What is less clear is whether lay magistrates are in a different position simply because they are the primary decision-makers, or whether it is their lay status which is of the essence. Additionally, of course, there must be a question mark over the position of a judge sitting in the Crown Court alongside lay magistrates when hearing appeals. It is unfortunate that such a basic point concerning the fairness of the administration of justice should be left in such an
ambiguous state.

We have suggested and concluded pecuniary bias, personal bias, departmental bias, policy bias and judicial of obstinacy on the basis of recent decided cases of Apex Courts in India in order to justify development of rule against bias and role of judiciary.

The Chapter-VI devoted to Subject - Matter Bias from pages 242 to 260 has been explained alongwith the recent decided cases of the Apex Courts, when the adjudicator or the Judge has general interest in the subject matter in dispute on account of his association with the administrative or private body, he will be disqualified on the ground of bias and to disqualify a Judge on this ground their must be intimate and direct connection between the adjudicator and the issues in dispute. A person shall also be disqualified from acting as judge if he has bias as to the subject-matter. If he himself is a party or has some direct connection with the litigation, so as to constitute a legal interest, he will be deemed to have a bias in the subject-matter. But it should be noted that mere involvement of a judge would not vitiate the administrative action unless there is a real likelihood of bias. For example in R.v Deal Justices ex parte Curling, it was held that a Magistrate who was a member of the Royal Society for the prevention of cruelty to an animal as this did not prove a real likelihood of bias.

The decision of an adjudicator will be vitiated if there has
been intimate and direct connection between the adjudicator and the issue in dispute. For example, in the State of U.P.v.Mohd.Nooh, a Departmental inquiry was held against an employee and one of the witnesses against the employee turned hostile. The Inquiry Officer left the inquiry and gave evidence against him and thereafter resumed to complete the inquiry and passed the order of dismissal. The order was quashed on the grounds of such bias as to subject-matter.

In this area of bias, the real question is not whether a person was biased. It is difficult to prove the state of mind of a person. Therefore, what the courts see is whether there is a reasonable ground for believing that the deciding officer was likely to have been biased.

Hence, it can be concluded that every kind of preference is not sufficient to vitiate an administrative action. If the preference is rational and unaccompanied by consideration of rational interest, pecuniary or otherwise, it would not vitiate the decision. There must be a real likelihood and not a mere suspicion of bias, before the proceedings can be quashed on the ground of bias. This apprehension must be judged from a healthy, reasonable and average point of view and not a mere apprehension and a vague suspicion of whimsical capricious and unreasonable people.

There is, according to some authors, a thin line of difference between the two tests i.e. real likelihood of bias and reasonable suspicion
of bias. But these tests yield the same result when applied to particular situation. So, it can be said that these two tests are same in effect. In the Indian circumstances also, the courts have no doubt applied these tests in various cases. But they have been very cautious in its application. It is judged from a reasonable man’s point of view and not from the point of view of a person who is whimsical.

The Chapter-VII devoted to Departmental or Official Bias from pages 261 to 268 where the cases relates to the proceedings before the administrative authorities, usually the department is found one of the party and in such a condition the adjudicator may be interested in pursuing the policy of the department. If the adjudicator in such a condition is disqualified only, when there is strong policy bias. He is also disqualified when he has shown some abnormal desire or too much involved with the departmental policy.

In the absence of clear allegation against any particular officer, the plea of malafide cannot be entertained. The Hon’ble Supreme Court held in an important case of Gullupali Nageswara Rao v. A.P.S.R.T. Corporation after hearing the Secretary, Transport Department who offended the principles of natural justice. The Court observed that:

“The aforesaid decision accept the fundamental principle of natural justice that in the case of quasi-judicial proceedings, the authority empowered to decide the dispute between opposing parties must be one without bias towards one side or other in the dispute. It is also a matter of fundamental
importance that a person interested in one party or the other should not, even formally, take part in the proceedings though in fact he does not influence the mind of the person, who finally decides the case. This is one of the principle that justice should not only be done, but should manifestly and undoubtedly be seen to be done. The hearing given by the Secretary, Transport Department, certainly offends the said principle of natural justice and the proceeding and the hearing given, in violation of that principle, are bad."

After the decision, the Govt. amended the Act and the function of hearing the objection was given to the concerned Minister. In the second case of Gullupalli Nageshwara Rao again challenged this Amendment of the Act on the ground of department bias because the Minister was the head of the Department concerned who had initiated the scheme and who was ultimately responsible for its execution. But in this case the Hon 'ble Supreme Court rejected the petition and observed:-

"The relevant provisions of the Motor Vehicle Act do not sanction any dereliction of the principle of natural justice. Any person affected by the scheme of nationalization is required to file objections before the State Govt., and the State Govt. after receiving the objections and representations, gives a personal hearing to the objector as well as to the undertaking and approves or modifies the scheme, as the case may be. The provisions of the Act, therefore, do not authorize the Govt. to initiate the scheme and thereafter constitute itself a judge in its own case. The entire scheme of the Act visualizes, in case of conflict between the under-taking and the operators of private buses, that the State Govt. should sit in judgment and resolve the conflict. The Act, therefore, does not authorize the State Govt. to act in derogation of the principles of natural justice."

The above recent decided cases of Apex Courts having
departmental bias/official bias have been discussed in detail to clarify the development of rule against bias and role of judiciary.

The Chapter-VIII devoted to Conclusion and Suggestions from pages 269 to 294 have been highlighted in order to justify the thesis “Development of Rule against Bias in India – Role of Judiciary”. In Indian Judiciary the position is very well settled that if the Court pass an order in violation of principle of natural justice and on the basis of biasness discussed in the above thesis from Chapter-I to Chapter-VII alongwith recent decided cases of Apex Courts, then that order is null and void. To conclude it is well established fact that principles of natural justice and Rule against Bias are fairly applicable in the decisions of many cases not only in the Judicial Courts but also in Tribunals and other administrative matters. Rather the Development of Rule against Bias in India and Role of Judiciary have become back borne of the modern legal profession and the legal authorities have been applying them in a fairly good manner to protect the legal interest of the parties.