

(1961) 09 CAL CK 0020
In the Calcutta High Court
Case No : Civil Revision Case No. 815 of 1959

Kalidas Mondal

APPELLANT

Vs

Board of Secondary Education, West Bengal and Others

RESPONDENT

Date of Decision : 11-09-1961

Acts Referred:

Constitution of India, 1950 — Article 226, 311

Citation : 66 CWN 75

Hon'ble Judges : D.N. Sinha, J

Bench : Single Bench

Advocate : Arun Kumar Dutt and Rebati Nath Sarkar, for the Appellant; T. Mazumdar, S. K. Rai Choudhury for the Board of Secondary-Education, Somendra Chandra Bose for the state, for the Respondent

Final Decision : Dismissed

Judgement

D.N. Sinha, J.—The facts in this case are shortly as follows:

The petitioner was employed as an Assistant Teacher in the Dinabandhu Institution, located at Shibpur in the suburbs of Calcutta. On the 24th July, 1956 the Secretary of the said Institution informed the petitioner that in view of the report made by the Headmaster of the Institution, he had been suspended from work with effect from 24th July, 1956 pending a report from the Enquiry Sub-Committee which had been formed. On the 30th August, 1956 the petitioner was served with a charge-sheet, a copy whereof is annexure "E" to the petition. The charges were of beating students, neglecting his duty in preparing Progress Reports and examining answer papers. He was also charged with having used abusive language to a pupil. The petitioner was asked to show cause why he should not be dismissed from service, as the Managing Committee were of the opinion that he was guilty of these charges. The petitioner showed cause and amongst other things stated that full particulars had not been given to him. On the 19th September, 1956 the petitioner was informed by the Secretary that it was not possible to give him copies of all complaints and other documents, but

he was asked to visit the School and look into the papers. On the 11th November, 1956 the Managing Committee passed a resolution to the effect that the explanation given by the petitioner was not found to be satisfactory and it was resolved that the petitioner be dismissed from service with effect from 24-7-56, the date on which he was suspended. From this order the petitioner preferred an appeal to the Appeal Committee, appointed under the West Bengal Secondary Education Act, 1950. This appeal was forwarded to the Director of Public Instruction on the 23rd February, 1957. The Director of Public Instruction asked the District Inspector to hold an enquiry, whereupon an enquiry was held, after notice to all parties. On the 10th June, 1957 the District Inspector of Schools, Howrah, gave his report, a copy of which is annexure M to the petition. This report was in favour of the petitioner. After considering all the facts the District Inspector of Schools reported that the decision to dismiss the petitioner was an unbecoming one and it was recommended that he should be reinstated. After this report was made by the D.I. to the D.P.I., nothing further happened with the result that in September, 1957 the petitioner made an application to this Court under Art. 226 of the Constitution and a Rule (In C.R. No. 2689 of 1957) was issued, asking the Board to show cause why the appeal should not be heard. On the 11th August, 1958 the rule was made absolute and the Board was directed to hear the appeal within a month from the communication of the order. On the 14th October, 1958 the Board of Secondary Education informed the petitioner that the appeal had been heard by the Appeal Committee and reinstatement of the petitioner had been refused, but the School authorities had been directed to pay to the petitioner a sum of Rs. 504/- as compensation and Rs. 18/- as annual increment, due from 21st January, 1956 to 23rd July, 1956 at the rate of Rs. 3/- per month, aggregating to Rs. 522/-. Thereupon, on the 24th November, 1958 the petitioner made a representation to the Board. On 15th December, 1958 the petitioner was informed that a review lay to the Board, then represented by the Administrator. On the 8th December, 1958 the petitioner submitted a review application. This review application was heard in the presence of the petitioner. The decision of the Administrator was communicated to the petitioner by letter of the Secretary of the Board dated 29th January, 1959 a copy of which is annexure "R" to the petition. The Administrator observed that the Appeal Committee was of the opinion that if the petitioner was reinstated it would be very difficult for the School authorities to maintain discipline. The Administrator agreed with this view and did not consider it desirable that the petitioner should be reinstated. He was, however, to be paid compensation equivalent to 10 months' pay plus the annual increment due from 21st January, 1956 to 23rd July, 1956 at the rate of Rs. 3/- per month. This order is now the subject matter of the present application. Before I proceed further, it would be necessary to refer to certain provisions of the Act and the rules in order to appreciate the two points which have been advanced in support of this rule. Section 30 of the West Bengal Secondary Education Act, 1950 (hereinafter referred to as the "said Act") provides for the constitution of the Appeal Committee. Sub-section (3) runs as follows:

It shall be the duty of the Committee to hear and determine appeals from decisions in disputes between teachers and Managing Committee of High Schools, referred to the Committee in accordance with regulations made in this behalf.

Section 36 provides for powers of the Board. One of the powers conferred on the Board is to make Regulations in respect of any matter required to be prescribed by regulations. As I have stated, Regulations have to be prescribed in respect of the hearing of appeals. Such regulations have been framed by notification dated 8th February, 1955 published in the Calcutta Gazette on the 17th February, 1955, Part I, page 600. The provisions are briefly as follows: A teacher who is dissatisfied with the decision of the Managing Committee of a School on the question of his dismissal or discharge, may appeal to the Appeal Committee against such decision. The appeal is to be made to the Appeal Committee in the prescribed form, within a month from the communication thereof. On receipt of the Memorandum of Appeal, the Secretary of the Board is to forward it to the Managing Committee of the School for its comments. If no comments are received within a month, then the President is to forward the records of the case to the Director of Public Instruction for expression of his views. Where comments are received from the Managing Committee, it has to be forwarded to the appellant, and the appellant may, within a fortnight, forward to the Secretary of the Board his explanation on such comment. All these things are to be forwarded to the D.P.I. for expression of his views. When the records are received back from the D.P.I. together with his views, the case is to be placed before the Appeal Committee. Regulation No. 7 lays down that the Appeal Committee may "on a consideration of all the materials before it", dispose of the appeal. By amendment, another Regulation has been introduced, being Regulation No. 6A to the following effect:

The Appeal Committee may, in its discretion, direct the appellant and the Secretary of the Managing Committee to appear before the Appeal Committee with such paper and documents as it may require and may also hear the appellant and the Secretary of the Managing Committee personally.

2. Two points have been canvases in this application and are as follows:

The first point is that, u/s 30(3) of the said Act, the Appeal Committee is required to "hear" the appeal. It is argued that this postulates a personal hearing; at least when a personal hearing is claimed. According to the Regulations as framed, it is entirely discretionary for the Appeal Committee to grant a hearing or not. In fact, in this particular case, no hearing has been given although asked for. The second point taken is that the Regulations, in so far as they provide for the views of the Director of Public Instruction to be placed before the Appeal Committee without the appellant being appraised thereof and without an opportunity for the appellant to deal with the same, are ultra vires sub-section (3) of section 30 of the said Act. It will be seen that the first point challenges the regulations in so far as the Appeal Committee can decide an

appeal without a personal hearing. Secondly, the challenge is to the regulations which provide that the Appeal Committee could consider an ex parte report of the D.P.I. without disclosing the same to the appellant. Now the main argument on behalf of the petitioner is that sub-section (3) of section 30 provides that the duty of the Appeal Committee is to "hear and determine appeals". It is argued that "hearing" means a personal hearing, particularly when the appellant asks for it. On the other hand, the argument put forward by Mr. Majumdar on behalf of the respondents is that the word "hearing" does not always mean a personal hearing. He points out that sub-section (3) itself lays down that the hearing should be "in accordance with the regulations made in this behalf." Therefore, all that we are concerned with is to see whether the hearing has been effected in accordance with the regulations which have been prescribed. If the regulations prescribe that there will be no hearing at all, that would be another matter. It is, however, argued that a hearing upon a written representation is not per se illegal and does not offend the rules of natural justice. The first case cited is a decision of the Supreme Court - *New Prakash Transport Co. Ltd. Vs. New Suwarna Transport Co. Ltd.*, . That was a case under the Motor Vehicles Act, and is an authority with regard to both the points raised in this case. It was argued that the provision as to appeal contained in the Act and the rules, violated the rules of natural justice, as they did not create a right to be heard and also permitted the use of a police report without disclosing the same to the parties. Sinha, J. (as he then was) stated as follows:

Thus, the Motor Vehicles Act and the rules framed thereunder with particular reference to the Regional Transport Authority and the Appellate Authority do not contemplate anything like a regular hearing in a court of justice. No elaborate procedure has been prescribed as to how the parties interested have to be heard in connection with the question, who is to be granted a stage carriage permit..... It has got to be observed that the question whether the rules of natural justice have been observed in a particular case must itself be judged in the light of the constitution of the statutory body which has to function in accordance with the rules laid down by the legislature and in that sense the rules themselves must vary..... But the police report submitted to the Regional Transport Authority or to the Appellate Authority, if it requires the police authority to do so, is not intended to be anything more than an expression of opinion by an authority interested in the maintenance of law and order, with particular reference to the question as to whether any of the applicants for a permit had anything to its credit or discredit as supplier of transport facilities. Such a report is meant more for the use of the authority in making or refusing a grant than for the use of the several applicants or any one of them. In other words, it is in the nature of information supplied by the police in order to assist the authority in making up its mind.

3. It was held that the consideration of the revised police report did not vitiate the decision of the authority. I must, however, mention here that the learned Judge has defended this action, mostly upon the facts of the case. This is what

was stated:

The only question that we have to determine is whether the Appellate Authority was justified in using the second report made by the police, though it had not been placed into the hands of the parties. That report did not directly contain any allegations against the first respondent. Hence there was nothing in that report which it could be called upon to meet. The only effect of that report was that many of the objections raised against the suitability of the appellant had been withdrawn by the police on further consideration of their records. The police report is more for the information of the authorities concerned with the granting of permits than for the use of the several applicants for such permits. In our opinion, therefore, the fact that the Appellate Authority had read out the contents of the police report was enough compliance with the rules of natural justice. We have also pointed out that no grievance was made at the time the Appellate Authority was hearing the appeal by any of the parties, particularly by the first respondent, that the second report should not have been considered or that they wished to have a further opportunity of looking into that report and to controvert any matter contained therein. They did not move the Appellate Authority for an adjournment of the hearing in order to enable it to meet any of the statements made in that report.

4. The next case cited on this point is Nagendra Nath Bora and Another Vs. The Commissioner of Hills Division and Appeals, Assam and Others, . This case dealt with the provisions of the Excise Act. Sinha, J., (as he then was) relied on the case of New Prakash Transport Co. Ltd. (1) (supra) and stated as follows:

The next ground of attack against the order of the High Court, under appeal, was that the High Court had erred in coming to the conclusion that there had been a failure of natural justice. In this connection, the High Court has made reference to the several affidavits filed on either side, and the order in which they had been filed, and the use made of those affidavits or counter-affidavits. As already indicated, the rules make no provisions for the reception of evidence, oral or documentary, or the hearing of oral arguments or even for the issue of notice of the hearing to the parties concerned. The entire proceedings are marked by a complete lack of formality. The several authorities have been left to their own resources to make the best selection. In this connection, reference may be made to the observations of this Court in the case of New Prakash Transport Co. Ltd. Vs. New Suwarna Transport Co. Ltd., . In that case, this Court has laid down that the rules of natural justice vary with the varying constitution of statutory bodies and the rules prescribed by the Act under which they function; and the question whether or not any rules of natural justice had been contravened, should be decided not under any preconceived notions, but in the light of the statutory rules and provisions. In the instant case, no such rules have been brought to our notice, which could be said to have been contravened by the Appellate Authority.

5. In Shivji Nathubhai Vs. Union of India (UOI) and Others, the Supreme Court was considering R. 52 of the Mineral Concession Rules, 1949 framed u/s 6 of the

Mines and Minerals (Regulations and Development) Act No. 53 of 1948. R. 52 gives a statutory right to any person grieved by an order of the State Government refusing to grant a lease, to apply for review to the Central Government. It was claimed that this made the Central Government a quasi-judicial body and it was bound to grant a hearing to the parties before passing an order under R. 54 upon the review application. It was inter alia pointed out that under the Rules, the Central Government was not even bound to call for the relevant records and other information from the State Government before deciding the application. Wanchoo, J., said as follows:

It is in the circumstances apparent that as soon as R. 52 gives a right to an aggrieved party to apply for review a lis is created between him and the party in whose favour the grant has been made. Unless therefore there is anything in the statute to the contrary it will be the duty of the authority to act judicially and its decision would be a quasi-judicial act.

The next question is whether there is anything in the Rules which negative the duty to act judicially by the reviewing authority. Mr. Pathak urges that R. 54 gives full power to the Central Government to act as it may deem "just and proper" and that it is not bound even to call for the relevant records and other information from the State Government before deciding an application for review. That is undoubtedly so. But that in our opinion does not show that the statutory Rules negative the duty to act judicially. What the Rules require is that the Central Government should act justly and properly; and that is what an authority which is required to act judicially must do. The fact that the Central Government is not bound even to call for records again does not negative the duty cast upon it to act judicially, for even courts have the power to dismiss appeals without calling for records. Thus R. 54 lays down nothing to the contrary.

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the Central Government was acting in a quasi-judicial capacity while deciding an application under R. 54. As such it was incumbent upon it before coming to a decision to give a reasonable opportunity to the appellant, who was the other party in the review application whose rights were being affected, to represent his case.

6. It would be observed that in this case the Rule did not provide for any hearing at all and the order of the Supreme Court was merely to the effect that the party affected should be given the right "to represent" his case. The leading case on the subject is *Local Government Board v. Arlidge* (4) (1915) A.C. 120. The history of this case, from its inception before the Court of King's Bench, has been fully described by Sinha, J. (as he then was) in the *New Prakash Transport Co. Ltd. Vs. New Suwarna Transport Co. Ltd.*, , and it is not necessary for me to repeat it here. It would be sufficient to refer to the final delineation of the law, as propounded by the House of Lords. The question for determination was as to the duty of an administrative body clothed with quasi-judicial powers, including the

power of hearing an appeal. The following principles were laid down:

- (1) They must deal with the question referred to them, without bias.
- (2) They must give to each of the parties the opportunity of adequately representing his case.
- (3) It does not follow that the procedure of every such Tribunal must be the same. In the case of a Court of law, tradition has prescribed certain principles to which, in the main the procedure must conform. But in the case of an Administrative Tribunal, the procedure to be followed depended on the nature of the Tribunal and the rules if any prescribing the procedure. Where the procedure is prescribed, it must follow the same. Where, however, no rules are prescribed it may follow a procedure which is its own.
- (4) Such a Tribunal is under a duty to act in good faith and listen fairly to both the sides, inasmuch as that was a duty which lay on everyone who decided anything. But it was not bound to consider such a question as though it were not a judicial trial.
- (5) Such a hearing need not be an oral hearing, provided the parties were given a fair opportunity of making their representation before the Tribunal. Such a Tribunal is not bound to hear witnesses and the Tribunal may call for and look into the reports not disclosed to the parties, if this was the usual procedure followed in such cases.

7. These are substantially the rules which should be followed by an Administrative Tribunal carrying out quasi-judicial duties. But there is no universal rule that can be applied to each and every case. As Tucker, L.J. said in *Russell v. Duke of Norfolk* (5) (1949) 1 All E.R. 109 at 118-

There are in my view, no words which are of universal application to every kind of enquiry and every kind of domestic tribunal. The requirements of natural justice must depend on the circumstances of the case, the nature of the enquiry, the rules under which the tribunal is acting, the subject-matter that is being dealt with and so forth.

8. As regards the right of hearing, Kaniya, C.J., said as follows in *A.K. Gopalan Vs. The State of Madras*, :

Again, I am not prepared to accept the contention that a right to be heard orally is an essential right of procedure even according to the rules of natural justice. The right to make a defence may be admitted, but there is nothing to support the contention that an oral interview is compulsory. In the *Local Government Board v. Arlidge*, (4) (1915) A.C. 120, the respondent applied to the Board constituted under the Housing Act to state a special case for the opinion of the High Court, contending that the order was invalid because, (1) the report of the Inspector had been treated as a confidential document and has not been disclosed to the respondent, and (2) because the Board had declined to give the

respondent an opportunity of being heard orally by the person or persons by whom the appeal was finally decided. The Board rejected the application. Both the points were urged before the House of Lords on appeal. Viscount Haldane L.C. in his speech rejected the contention about the necessity of an oral hearing by observing:

But it does not follow that the procedure of every tribunal must be the same. In the case of a Court of law tradition in this country has prescribed certain principles to which, in the main, the procedure must conform. But what that procedure is to be in detail must depend on the nature of a tribunal".....

9. In this connection it is necessary to consider an appellate decision of this High Court - Bhagat Ram Baika Vs. Prabirendra Mohan Tagore and Others, . This was a case under the provisions of the West Bengal Non-Agricultural Tenancy Act, 1949. An appeal was filed u/s 72(3) of the said Act, from an order passed by the Collector u/s 72(1) thereof. This appeal was dismissed summarily without giving the appellant a hearing, although the Act did not specifically require that a hearing shall be given. Chakravartti, C.J. said as follows:

I may dispose of the shorter and the simpler ground first. It is true that the West Bengal Non-Agricultural Tenancy Act, while providing for an appeal to the Commissioner of the Division from an order passed by the Collector u/s 72(1), does not say in what manner the appeal should be dealt with or heard. It certainly does not say that the appeal shall not be dismissed without giving an opportunity to the Appellant to be heard. No rule also appears to have been framed with regard to the procedure to be followed in disposing of such appeals. Nevertheless, we feel bound to hold that the petitioner's appeal ought not to have been dismissed summarily without giving him a hearing, although the Act does not specifically require that a hearing shall be given. On the principles laid down by the Supreme Court, it must be held that where an appeal has been provided for, natural justice demands that the appellant should be given a hearing before the appeal is dismissed, whether or not there be any statutory direction in that behalf. "But that a law of natural justice exists", observed their Lordships in the case of Sangram Singh v. Election Tribunal, Kotah (8) (1955) S.C.A. 545, "in the sense that a party must be heard in a Court of law, or at any rate, must be allowed to appear and defend himself, unless there is an express provision to the contrary is, we think, beyond dispute." Mr. Sen Gupta, who appears for the opposite party referred to what he called the Practice Manual under which the Board of Revenue or the Commissioner of the Division was entitled to dismiss summarily appeals preferred to them. The Practice Manual may authorise such procedure and it may be that such disposal of appeals could not be successfully impugned before the commencement of the present Constitution. Under the Constitution, however, as interpreted by the Supreme Court, a suitor who has a lis before an authority who has to pronounce on it, is entitled to a hearing before he is non-suited. We must, therefore, hold that the petitioner's appeal was not properly disposed of.....

10. It would be observed that this was a case of a Judicial proceeding in Court. We are concerned in the present case, not with a proceeding before a judicial tribunal, but with an administrative tribunal. Also the distinction is that in the present case there are rules for hearing framed under powers given by the Act. Such rules specifically prescribe that the Appeal Committee may or may not give an oral hearing to the appellant. Section 30(3) of the said Act, prescribes that appeals shall be heard and determined, "in accordance with regulations made in this behalf". Thus, an appeal must be determined according to the regulations, without which it could not be heard and determined at all. Therefore, the only way that the petitioner could succeed would be by establishing that a hearing without an opportunity for making an oral representation is not a hearing at all. As I have shown above, that is not the position in the case of an administrative tribunal performing quasi-judicial functions. In my opinion, the legal position may be summarised as follows:

(1) The principle embodied in the maxim "Audi Alteram, Partem" is applicable, whenever an authority is entrusted with the making of a decision in which someone is interested and is likely to be prejudiced thereby. (R. v. Chancellor & Masters & Scholars of the University of Cambridge (9) 93 E.R. 698. Dipa Pal v. University of Calcutta (10) 56 C.W.N. 278).

(2) The maxim however is one of the rules of natural justice. In its broadest sense, this rule means that a result or process should be just. It is however impossible to give it a definition which will encompass every shade of meaning which may be attributed to it [Per Lord Shaw in Local Government v. Arlridge (4) (1915) A.C. 120 at 138].

(3) Where such a decision is to be arrived at by a Court or a judicial tribunal, the general principle is that in the absence of any rule or practice to the contrary, all parties should be heard, which includes an oral hearing. There is, however, nothing to preclude a summary trial without such hearing or any hearing at all, if such a procedure is laid down by law. Such a law in India must not however offend the Constitution. If such a law is violative of the Constitution and destructive of the fundamental rights conferred thereby, it may be rendered invalid. (Bhagat Ram Baika Vs. Prabirendra Mohan Tagore and Others,).

(4) All disputes however are not decided by courts of law, or a judicial tribunal. Some are decided by tribunals which are purely administrative and others of a quasi-judicial nature. Wherever there is a lis between the parties, the decision of any dispute takes the nature of a quasi-judicial function. [Province of Bombay v. Khusaldas Advani (11) AIR (1950) S.C. 606. R. v. Electricity Commissioners (12) (1924) 1 K.B. 171].

(5) In the case of an administrative tribunal of the nature mentioned above, the requirements of natural justice have to be met. But whether they have been met by the procedure adopted in any given case, depends to a great extent on the facts and circumstances of the case. There are no rules which are of universal

application to every kind of enquiry and every kind of domestic tribunal. The requirements of natural justice must depend on the circumstances of the case, the nature of the enquiry, the rules under which the Tribunal is acting, or the subject matter that has been dealt with. (*Russel v. Duke of Norfolk* (5) (1949) 1 All E.R. 109 at 118, *University of Ceylon v. Fernando* (13) (1960) 1 All E.R. 631 at 637).

(6) Such a tribunal is under a duty to act in good faith and to listen fairly to both the sides, inasmuch as that was a duty which lay on everyone who decided anything. But such a tribunal was not bound to treat all questions before it as if it was a judicial trial. It can obtain information in any way it thought best, always giving a fair opportunity to those who were parties to the controversy to correct and controvert any relevant statement prejudicial to their views. (*Board of Education v. Rice* (14) (1911) A.C. 179 at 182).

(7) There is a duty of giving any person against whom a complaint is made, a fair opportunity of making any relevant statement which he may desire to bring forward and a fair opportunity to correct or controvert any relevant statement brought forward to his prejudice. (*De Verteuil v. Knaggs* (15) (1913) A.C. 557 at 558). The person accused should know the accusation made, and should be given an opportunity to state his case. (*Byrne v. Kinematograph Renters Society Ltd.* (16) (1958) 2 All E.R. 579 at 599). No materials should be relied upon against him without his being given an opportunity of explaining them (*Union of India (UOI) Vs. T.R. Varma*, .

(8) In the case of a court of law, the procedure is in most cases prescribed by law. In the absence of such rules, tradition has prescribed certain principles to which in the main the procedure must conform. But what the procedure is to be in the case of an administrative tribunal depends on the nature of the tribunal. Some analogy exists no doubt between the procedures of judicial bodies and other tribunals which are not strictly judicial. But the procedure which may be very just in one case is not necessarily suitable for the other. It may even be incongruous. (Per Lord Atkin in *General Medical Council v. Spackman* (18) (1943) A.C. 627 at 638).

(9) Such an administrative tribunal must of course do its best to act justly and to reach at just ends by just means. If a statute prescribes the means, it must employ them. If it is left without express guidance, it must still act justly and honestly (Per Lord Shaw in *Local Government Board v. Arlidge* (4) (1915) A.C. 120 at 138).

(10) Where rules have been prescribed by law such rules must be followed. Otherwise, what must be followed are the Rules of natural justice. Rules of natural justice vary with the varying circumstances of statutory bodies and the rules prescribed by the statutes under which they function, and the question whether or not any rules of natural justice had been contravened, should be decided not under any pre conceived notion, but in the light of the statutory

rules and provisions. (New Prakash Transport Co. Ltd. v. The New Suwarna Transport Co. Ltd. (1) (supra), Nagendra Nath Bora v. Commissioner of Hills Division, (2) (supra).

(11) In the absence of any prescribed rules, such a tribunal is the master of its own procedure. But such a procedure must not be in defiance of elementary standards, e.g., by hearing one side and refusing to hear the other. (Per Lord Shaw in Arlidge's case (4) (Supra) at page 137). The Evidence Act has no application Union of India (UOI) Vs. T.R. Varma, .

(12) Rules of natural justice require that even in the case of an administrative tribunal there should be a "hearing". It does not, however, mean that in every case there should be an "oral hearing". Where such an oral hearing is prescribed, it confers a right. But where there is no such right prescribed by rules, a hearing may be by way of representation made by the parties. As long as the charge made by one party against the other is brought to the notice of the party concerned, as long as he is given an opportunity of dealing with the same, it can not be said that there has been no hearing (Local Government Board v. Arlidge (4) (supra). Gopalan v. State of Madras (6) (supra), Shivji Nathubhai v. Union of India (3) (supra).

(13) Such a body may call for reports and such reports need not always be disclosed - Arlidge's case (supra). While such a procedure is wholly repugnant in all judicial trials, it must not be forgotten that administrative tribunals must in their very nature rely on information from their agents. They can obtain information in any way they think best, but must always give a fair opportunity to those who are parties in the controversy for correcting or contradicting any relevant statement prejudicial to their interest. (Board of Education v. Rice (14) (1911) A.C. 179, and per Lord Parmoor in Arlidge's case (4) (supra) at 141). Thus, an ex parte report may be considered, but if such a report goes against the accused then he must have an opportunity of explaining the same, if it is intended to rely on the report. (Union of India (UOI) Vs. T.R. Varma,).

(14) The procedure to be followed by such a tribunal must be according to the rules where rules are prescribed. But where such rules are absent, the tribunal can not ignore a practice which may have grown up. In the case of departmental enquiries concerning civil servants, where the provisions of Art. 311 of the Constitution are attracted, a practice has grown up of serving a charge-sheet, a second show cause notice, of allowing evidence to be adduced and of granting an oral hearing where such a hearing is asked for. Regard being had to the fact that such cases involve important constitutional rights, such practice must be followed. (Union of India (UOI) Vs. T.R. Varma, , Dhingra v. Union of India (19) AIR (1958) S.C. 38).

11. Applying these tests to the facts of this case, we find that the procedure to be followed in the hearing of an appeal has been prescribed by law. Under sub-section (3) of section 30 of the said Act it is provided that the Appeal Committee

has a duty to hear appeals in accordance with regulations made in this behalf. Such regulations have been made and now provide that the Appeal Committee may at its discretion either grant to the appellant the right of an oral hearing or not. In my opinion, this provision is not contrary to law. As regards the second point, namely the non-disclosure of the report of the D.P.I. and in this case, the report of the District Inspector relied on by the D.P.I., the position in law is that the regulations do not contemplate a disclosure of the same. The position in law however is that if the report should contain matters prejudicial to the appellant and if the Appeal Committee wishes to rely on such matters, then, in accordance with the view as expressed by Lord Par-moor in *Arlidge's case* (4) (*supra*) the appellant must be informed of it, and given an opportunity to meet the same. In this particular case, the report of the District Inspector which was relied upon by the D.P.I. was wholly in favour of the appellant. Thus, by non-disclosure of it, the petitioner was not prejudiced. Ultimately, it came to be disclosed, and when the petitioner got an actual oral hearing before the Administrator, he himself relied on the contents of such report. Therefore, in the circumstances of this case, the rules of natural justice were not violated. That being so, the two grounds taken in this application have both failed. This Rule is discharged. Interim orders, if any, are vacated. There will be no order as to costs.