



## CURRENT AFFAIRS



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## NATURAL JUSTICE

*This article covers “Daily current affairs for UPSC” and the topic is about ‘Natural Justice’ which is in news, it covers “Polity and Governance” In GS-2; the following content has relevance for UPSC.*



### Natural Justice

**For Prelims:** Natural Justice

**For Mains:** GS-2, Polity and Governance

#### **Why in news:**

The MHA had cited alleged links between the channel’s promoters Madhyamam Broadcasting Limited and Jamaat-e-Islami Hind for denying the security clearance to Media One. Following this, the channel was taken off the air.

#### **ABOUT NATURAL JUSTICE**

Natural justice, also known as procedural justice or due process, is a fundamental legal principle that ensures fairness and impartiality in the administration of justice. It refers to a set of principles that govern how decisions or actions by individuals or institutions,

particularly those in positions of authority, should be made and implemented, with a focus on fairness, transparency, and protection of individual rights.

## **PRINCIPLES OF NATURAL JUSTICE**

The principles of natural justice are considered fundamental human rights and are recognized in many legal systems around the world as a cornerstone of the rule of law.

- **Audi alteram partem:** This Latin phrase means “hear the other side” or “let the other side be heard.” It requires that all parties involved in a dispute or decision-making process have the right to be heard and present their case before a decision is made. This includes the right to receive notice of the allegations or issues, an opportunity to provide evidence, and the right to cross-examine witnesses.
- **Nemo iudex in causa sua:** This Latin phrase means “no one should be a judge in his own cause.” It prohibits individuals or institutions from being both a party to a dispute and the decision-maker in that dispute, as it would create a conflict of interest. It ensures that decision-makers are impartial and unbiased.
- **Right to a fair and unbiased decision-maker:** It requires that the decision-maker be independent, impartial, and free from any bias or prejudice that may affect the outcome of the decision. This includes ensuring that decision-makers do not have personal or financial interests in the outcome of the matter at hand.
- **Right to reasons:** It entails that decision-makers provide clear and reasoned explanations for their decisions so that parties understand the basis on which the decision was made and can assess its fairness and legality.
- **Right to timely and effective remedies:** It ensures that parties have access to appropriate and effective mechanisms for review and appeal to challenge decisions that are unfair or contrary to natural justice.

## **THE BONE OF CONTENTION OF NATURAL JUSTICE**

- The Ministry of Information and Broadcasting refused to renew a Malayalam channel’s broadcast license because the Ministry of Home Affairs refused to provide its security clearance while examining its license renewal request.
- The MHA denied the security clearance based on claimed links between the channel’s promoters and Jamaat-e-Islami Hind.
- The prohibition on the channel was upheld by the Kerala High Court in 2022.
- The Supreme Court overturned the Kerala High Court’s decision, allowing the channel to resume operations.

## **DIFFERENCES OF OPINION**

- The promoters of the channels contended before the SC that they were not given a chance to defend themselves because the national security concerns cited to deny license renewal were provided before the HC in a sealed cover.

- Furthermore, it was argued that the fundamental right to freedom of expression, which includes press freedom, can only be limited on the grounds mentioned in Article 19(2).
- And there was no accusation that the station breached the Programme and Advertising Code set under the Cable Television Networking (Regulation) Act 1995 and the 1994 Rules.

### **CONCEPT OF SEALED COVER JURISPRUDENCE**

- The concept of “sealed cover jurisprudence” is not a recognized or formal legal term in general legal practice. However, it has been used colloquially in India to refer to a specific practice employed by courts in certain cases.
- In India, the practice of sealed cover jurisprudence has been used in cases involving sensitive matters such as national security, confidential business information, or personal privacy. In these cases, the court may order the submission of certain information or documents in a sealed cover, which is not disclosed to the parties or the public but is considered by the court in its decision-making process.
- The Supreme Court’s authority to use it is derived from the Supreme Court Rules and Section of the Indian Evidence Act of 1872. The information to be kept under seal is confidential. Access to the contents of such material would be denied to any party. The only exception is if the Chief Justice orders that the opposing side have access to it.
- The guidelines also state that information can be kept confidential if its dissemination is not in the public’s best interests. Official unpublished records relating to state affairs are protected, and a public officer cannot be forced to release such information.
- The concept of sealed cover jurisprudence in India has been a subject of debate and discussion, with some arguing that it can be a useful tool for protecting sensitive information and interests, while others express concerns about the potential lack of transparency and due process in cases where sealed covers are used.

### **THE ARGUMENT AGAINST THE SEALED COVER JURISPRUDENCE**

There are arguments against the practice of sealed cover jurisprudence, which involves the submission of sensitive or confidential information or documents to a court in a sealed cover that is not disclosed to the parties or the public. Some of the arguments against this practice include:

- **Lack of transparency:** The use of sealed covers can be seen as lacking transparency in the judicial process, as it may prevent parties and the public from having access to information that is relevant to the case. This may raise concerns about fairness, accountability, and the right to know in legal proceedings.

- **Limited opportunity for the challenge:** When information or documents are submitted in a sealed cover, parties may have limited opportunity to challenge or rebut the contents of the sealed cover, as they may not have access to the information contained therein. This may impede their ability to fully present their case or contest the evidence presented in the sealed cover.
- **Potential abuse of power:** The discretion to use sealed covers is typically vested in the court, and there are concerns that this may open the door to potential abuse of power, as the contents of the sealed cover are not subject to scrutiny by the parties or the public. This may raise questions about accountability, checks and balances, and the fairness of the decision-making process.
- **Lack of clear legal framework:** The use of sealed covers may lack a clear legal framework or guidelines, which can lead to inconsistencies or uncertainty in their application. This may result in different practices or standards being followed by different courts or judges, leading to potential confusion or inconsistency in the treatment of sensitive information in legal proceedings.
- **Limitation on right to be heard:** The use of sealed covers may limit the right of parties to be heard fully in court, as they may not have access to all the information or documents that are considered by the court in the sealed cover. This may impact the parties' ability to effectively present their case and may raise concerns about fairness and due process.
- **Potential erosion of public trust:** The use of sealed covers may erode public trust in the judicial system, as it may be perceived as secretive or opaque, leading to doubts about the integrity and impartiality of the decision-making process. This may have repercussions on the public's confidence in the judiciary and the rule of law.

## WAY FORWARD

There are several considerations that could potentially help in utilizing sealed cover jurisprudence more effectively:

- **Clear legal framework:** Establishing a clear legal framework or guidelines for the use of sealed covers can help ensure consistency, transparency, and accountability. This could include defining the specific situations or types of cases where sealed covers may be used, the procedures for submitting, handling, and disclosing sealed covers, and the grounds or criteria for granting or denying the use of sealed covers. Such guidelines could be formulated through legislation, court rules, or judicial precedents.
- **Limited use and necessity test:** The use of sealed covers should be limited to cases where there is a genuine necessity to protect sensitive information or documents, such as cases involving national security, confidential business information, or personal privacy. The court should apply a strict necessity test to determine whether the use of sealed covers is justified in a particular case, considering the potential impact on transparency, fairness, and the right to know.

- **Procedural safeguards:** Implementing procedural safeguards to protect the rights of parties and ensure fairness is crucial. This may include providing parties with an opportunity to challenge or rebut the contents of the sealed cover, subject to appropriate safeguards to protect the sensitive information, such as through the appointment of a special advocate or through in-camera proceedings. The court should also consider the proportionality of the use of sealed covers, weighing the need for the protection of sensitive information against the right to be heard and the principles of natural justice.
- **Judicial scrutiny:** The court should exercise robust judicial scrutiny in assessing the contents of the sealed cover and its relevance to the case. This may involve a thorough examination of the information or documents in the sealed cover, verification of the authenticity and reliability of the contents, and a reasoned determination of their impact on the decision-making process. The court should also provide clear and reasoned justifications for its decision to use sealed covers or not.
- **Transparency and reporting:** While the contents of the sealed cover may not be disclosed to the parties or the public, the fact that sealed covers are used and the general reasons for their use should be transparent and reported appropriately. This may include recording the use of sealed covers in court orders or judgments, providing summaries or redacted versions of the sealed covers for public disclosure, or reporting on the use of sealed covers in annual or periodic reports.
- **Review and accountability:** The use of sealed covers should be subject to periodic review and accountability mechanisms to ensure that they are used only when necessary and in compliance with the legal framework and guidelines. This may involve monitoring, reporting, and evaluation of the use of sealed covers, as well as appropriate mechanisms for review, challenge, and redress in case of any alleged misuse or abuse.

It's important to note that the utilization of sealed cover jurisprudence should always be balanced with the principles of transparency, fairness, and due process, and should be guided by the specific legal and factual circumstances of each case. Consulting with qualified legal professionals, respecting the rights of parties, and maintaining transparency and accountability are crucial elements in utilizing sealed cover jurisprudence effectively.

**Source:**  
[Legalserviceindia](https://legalserviceindia.com)

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