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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE EFFECTS OF PROCEDURAL IMPROPRIETY: **AN INDIAN JUDICIAL VIEW**

AUTHORED BY - POOJA KUMARI

Abstract

The Supreme Court or High Courts of the concerned states are empowered to examine the validity of an executive or legislative act under the power of Judicial Review and if such act is found to be contrary to the enshrined principles of Constitution, then it can be declared null and void. Since Judicial Review has also been recognized as the part of Basic Structure of the Constitution¹, the court cannot be kept devoid of this power. It has also been reiterated by the courts that while exercising its powers of judicial review of administrative action, it cannot interfere with the administrative decision unless it suffers from the vice of illegality, irrationality, or procedural impropriety. Before initiating any administrative action or decision, the administrative officials are duty bound to follow the established 'fair procedure'. Any failure in complying with the rules of 'fair procedure' or the procedural norms set by the statute would invalidate the decision of such authority and it might be challenged in the courts of law on the ground of procedural impropriety. Procedural Impropriety is basically attracted in 2 circumstances, firstly, in case of failure to observe the rules laid down in the statute and secondly, in case of failure to observe the rules of natural justice. How the Indian Courts have addressed and remedied these procedural improprieties in various cases. These have been discussed in the later part of the chapter in detail.

Chapter 1: Introduction

Indian judicial system is entrusted with the power of judicial review which has also got recognition under the basic structure of the constitution.² In exercise of judicial review, the Supreme Court and the High Courts can review the constitutionality of legislative, executive or administrative actions and if court finds that the actions are not in conformity with the constitution, then such an action can

¹ Kesavananda Bharti v. State of Kerala (1973) 4 SCC 225.

² Kesavananda Bharti v. State of Kerala (1973) 4 SCC 225.

be declared null and void or the courts also hold the power to issue writs for safeguarding the fundamental rights of the individuals. Though the scope of judicial review is vast but it is not at all absolute as there are certain limitations attached to this power which is essential for maintaining the balance between the 3 organs of the state. Judicial review from time to time has helped in shaping the Indian legal system through various pronouncements thereby ensuring that the government is functioning well within the limits set by the Constitution and fundamental rights of the people are taken care of in the welfare state.

The emergence of the welfare state has given birth to numbers of rules, regulations and policies which can be brought into effect by the actions of the administrative officials. That means administrative action is mandatory for implementation of the legislative or executive actions. But an administrative action in essence can neither be said to be legislative nor judicial action rather it can be said to be quasi-judicial or quasi-legislative action which ensures the proper working of the administration. The basis behind judicial review of the administrative actions is to ensure that they are complying with the principles of natural justice and the Constitution of India. In lieu of judicial review of the administrative actions, the courts cannot question the decision itself rather it can only question the process of decision-making. That is, the courts cannot question into the reason behind a particular administrative action or the validity of the action rather it can only enquire into the procedure followed while taking a particular administrative action. This restriction is put upon the courts to prevent them from usurping power in the guise of restricting abuse of power.

While making any administrative decision, fair procedure must be followed as it is equally important like that of the decision because if procedure itself is not fair, then such a decision cannot be relied upon. Therefore, courts always stress upon the requisite of “fair procedure” in every administrative action. The requirement of “fair procedure” may arise in following situations:

- 1) If fundamental rights of the individuals are infringed, then fair procedure must be followed as a constitutional mandate.
- 2) If the concerned statute itself lays down any procedure to be followed before taking administrative action, then also such fair procedure shall be religiously followed otherwise it might result into failure of administrative action.
- 3) Even in cases where the statute is silent about the procedure, then also a minimal fair procedure must be followed as an implied requisite.

On various occasions, it has been laid down by the judiciary that even if a particular statute is silent about the procedural norms, still the administrative authorities shall comply with the principles of natural justice while making any decision as it may involve ‘civil’ or ‘evil’ consequences. Therefore, concept of Procedural impropriety has close nexus with the observance of rule of ‘fair procedure.’³ It stresses upon the fact that the administrative officials must follow a ‘fair procedure’ before taking any action or before arriving at any decision. Any deviations from proper/ fair procedures or protocols in legal or administrative processes may result into procedural impropriety as a ground for judicial review.

Chapter 2: Meaning and scope of the term “Procedural Impropriety”

2.1 Meaning of the term “Procedural Impropriety”

Procedural Impropriety basically means lack of observance of “Fair Procedure” in administrative action⁴. The fair procedure herein means the compliance with the constitutional mandates, rules and regulation laid down in the statute along with the common law rules of natural justice. Failure to follow any of these procedures would lead to procedural impropriety.

Procedural impropriety is a fundamental concern in administrative law because adherence to proper procedures is essential for ensuring fairness, accountability, and legitimacy of administrative actions and it can lead to decisions being declared invalid or overturned on appeal in administrative decision-making. It is an important aspect of administrative law, as procedural fairness is also essential for upholding the principles of rule of law and protecting the rights of individuals and organizations affected by administrative decisions. When procedural improprieties occur, affected parties may have grounds to challenge the validity of administrative actions or decisions through legal avenues such as judicial review.

2.2 Elements of Procedural Impropriety

Procedural defects in administrative action refer to errors or deficiencies in the process followed by administrative bodies when making decisions or taking actions. These defects can undermine the fairness, legality, and legitimacy of administrative actions. There are some common elements of

³ <https://mcrhrdi.gov.in/splfc2023/week9/2-%20%20Presentation%20%20Judicial%20Review%20of%20Administrative%20Action%20in%20India.pdf>, (last visited on 08 April, 2024).

⁴ <https://indiankanoon.org/search/?formInput=%22procedural%20impropriety%22>, (last visited on 08 April, 2024).

procedural defects which are as follows⁵:

- i. **Failure to Provide Adequate Notice:** Administrative bodies are often required to give affected parties notice of hearings, meetings, or decisions that may affect them. Failure to provide adequate notice deprives individuals or organizations of the opportunity to participate in the process and present their views.
- ii. **Lack of Opportunity to Be Heard:** Procedural fairness typically requires that affected parties have an opportunity to present their case, respond to evidence, and make arguments before a decision is made. Denying individuals this opportunity violates their right to procedural justice and the rules of Natural Justice, that is, *Audi Alteram Partem* and *Nemo Judex In Causa Sua*⁶.
- iii. **Bias or Prejudgment:** Decision-makers must approach their tasks with impartiality and without bias or prejudice. Any indication that a decision has been made before all evidence has been considered or without considering the arguments of all parties involved constitutes a procedural defect.
- iv. **Failure to follow Statutory Procedures:** The executives or the administrative officials are duty bound to comply with any procedural requirements laid down in the statute and while making any decision or acting in administrative capacity. Failure to adhere to these procedures, whether intentionally or inadvertently, can render the action invalid.
- v. **Insufficient explanation of decision:** Administrative bodies are generally required to provide reasons for their decisions. Failure to provide a clear and reasoned explanation for a decision can make it difficult for affected parties to understand the basis for the decision and to challenge it if necessary.
- vi. **Denial of Right to Legal Representation:** In some cases, affected parties may have a right to legal representation in administrative proceedings. Denying individuals this right or making it unduly difficult for them to obtain representation can constitute a procedural defect.
- vii. **Unreasonable delay:** Excessive delays in administrative proceedings can deprive individuals of their rights and undermine the effectiveness of the process. While some delays may be unavoidable, unreasonable delays without justification can be considered procedural defects.

⁵ <https://www.lexisnexis.co.uk/legal/guidance/grounds-of-judicial-review-procedural-impropriety>, (last visited on 08 April, 2024).

⁶ I.P. Massey, *Administrative Law*, EBC Publishing Company, 10th edition, 2023

- viii. **Failure to Consider Relevant Evidence:** Administrative bodies have a duty to consider all relevant evidence before deciding. Failure to consider important evidence or to give it appropriate weight can result in an unfair or arbitrary decision.
- ix. **Inadequate Recordkeeping:** Administrative bodies must maintain accurate and complete records of their proceedings. Inadequate recordkeeping can make it difficult for affected parties to challenge decisions and can undermine transparency and accountability.
- x. **Failure to provide Remedies or Appeals:** Administrative processes should generally include mechanisms for challenging decisions and seeking remedies for any procedural defects. Failure to provide adequate avenues for appeal or redress can compound the impact of procedural defects.

These elements are not exhaustive, and the specific requirements for procedural fairness may vary depending on the context and legal framework governing the administrative action. However, they highlight some of the key considerations that are typically relevant in assessing the procedural validity of administrative actions.

Chapter 3: Historical origin of “Procedural impropriety”

3.1 Common Law origin

The concept of procedural impropriety in administrative actions has its roots in the common law legal tradition, particularly in England⁷. Over centuries, principles of procedural fairness and natural justice have been developed through judicial decisions and legal scholarship. Brief overview of the common law origin of procedural impropriety is as follows:

The principles of natural justice can be traced back to medieval English legal traditions, where notions of fairness and due process were recognized in legal proceedings. These principles were initially developed in the context of judicial proceedings but later extended to administrative actions.

Thereafter with the expansion and growth of the administrative affairs in England, administrative actions became more prevalent, particularly in the exercise of governmental powers and functions. As administrative agencies and officials exercised discretionary powers, concerns arose regarding the need for procedural safeguards to ensure fairness and prevent abuse of power. The English Royal Courts, particularly the Court of King's Bench and the Court of Chancery, played a crucial role in

⁷ <https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100347452>, (last visited on 08 April, 2024).

developing principles of procedural fairness in administrative actions. Through landmark cases, judges articulated principles such as *audi alteram partem* (hear the other side) and *nemo iudex in causa sua* (no one shall be a judge in his own cause), which became foundational to administrative law.

Additionally, the doctrine of judicial review, which allows courts to review the legality and fairness of administrative actions also emerged in England to enforce the procedural propriety. Courts began to scrutinize the administrative decisions or actions to ensure that they were made in accordance with the established procedures and principles of justness, fairness, and reasonability⁸.

Another important common law development in administrative law was the doctrine of *ultra vires*, which prohibits administrative authorities from exceeding their legal powers or acting arbitrarily. Courts used this doctrine to invalidate administrative actions that were procedurally improper or lacked a lawful procedure⁹.

Over a period, English courts elaborated on the principles of procedural fairness, emphasizing the importance of providing notice, hearing, and reasons in administrative decision-making. These procedural requirements were seen as essential in safeguarding the individual rights and promoting the rule of law. In addition to judicial developments, various statutory reforms also took place in England, such as the Tribunals were established for hearing the persons who were aggrieved from the such actions of administrative authorities which were procedurally improper or such actions which were result of lack of lawful procedure. Also, Courts and Enforcement Act 2007 have been codified and supplemented to ensure procedural safeguards in administrative actions. These reforms reflect ongoing efforts to enhance transparency, accountability, and access to justice in administrative law. In summary, the common law origin of procedural impropriety in administrative actions can be traced back to the development of principles of natural justice and procedural fairness in English legal history. These principles have been refined through judicial decisions, statutory reforms, and ongoing efforts to ensure the integrity of administrative decision-making processes. In common law system, it is a set rule that if a person is aggrieved by the unlawful action of the public authority such as a minister, statutory tribunal, or local council, he/she may challenge the decision in the administrative

⁸ <https://www.ashurst.com/en/insights/quickguide-judicial-review/>, (last visited on 08 April, 2024).

⁹ <https://lawexplores.com/procedural-grounds-for-judicial-review/>, (last visited on 08 April, 2024).

court or high court under judicial review. The landmark decision given in the case of Ridge v. Baldwin¹⁰ also mandated the application of doctrine of natural justice into the realm of administrative decision making, that is, there must be compliance with the procedural fairness.

3.2 Evolution in Indian legal system

The evolution of procedural impropriety or defects in administrative action in India has been shaped by historical, constitutional, and legal developments. Here is a broad overview:

Prior to independence, Since India was under British colonial rule, and administrative actions were largely governed by British laws and practices. The British introduced administrative laws and procedures that were often criticized for being arbitrary and lacking transparency. However, the concept of rule of law and principles of natural justice started to come into light during this period. Soon after gaining independence in 1947, India adopted a democratic set of constitution in 1950.

The Constitution of India lays down the framework for administrative action, including the separation of powers between the executive, legislature, and judiciary. It also incorporates fundamental rights and principles of natural justice. The principles of natural justice, including the principles of audi alteram partem (hear the other side) and nemo iudex in causa sua (no one shall be a judge in his own cause), have been recognized and applied by Indian courts in administrative law matters. These principles ensure fairness and procedural propriety in administrative actions.

In addition to constitutional principles, various statutes and regulations govern administrative actions in India. For example, the Administrative Tribunals Act, 1985, provides for the establishment of administrative tribunals to adjudicate disputes related to recruitment and conditions of service of persons appointed to public services and posts. Also, after 2005 now we have the Right to Information Act which empowers citizens to access information held by public authorities, thereby promoting transparency and accountability in administrative actions. The RTI Act has been instrumental in addressing procedural defects such as lack of transparency and arbitrary decision-making. Over the years, there have been efforts to reform administrative processes and enhance efficiency, transparency, and accountability. Initiatives such as e-governance, citizen charters, and administrative simplification aim to streamline procedures and reduce procedural defects in administrative actions.

¹⁰ [1964] AC 40.

Overall, the evolution of procedural defects in administrative action in India reflects a gradual shift towards greater adherence to principles of natural justice, transparency, and accountability, supported by constitutional provisions, judicial pronouncements, statutory frameworks, and administrative reforms¹¹. Indian courts, particularly the Supreme Court, have played a significant role in evolving and interpreting procedural safeguards in administrative actions. Through various landmark judgments, the judiciary has expanded the scope of judicial review and emphasized the importance of procedural fairness in administrative decision-making.

Over the last decade, Supreme Court has talked about various paradigms of doctrine of Natural Justice in administrative decision- making though the word natural justice is nowhere explicitly mentioned in the law of the land. Through the relevant case laws, it is a set rule now that minimum prescribed procedure must be complied with before making any decision otherwise it is subject to be challenged under Judicial Review on the ground of procedural Impropriety¹².

It has been acknowledged that judicial review is the most essential and fundamental prerequisite for building a welfare state that is well- equipped with such mechanisms which ought to protect citizens' rights and liberties. The Supreme Court of India and the High Courts of India hold a substantial amount of judicial review authority in India. Basically, the ability of a court to examine the actions of other branches of government is known as judicial review. This power allows the court to declare actions taken by the legislative and executive branches to be “unconstitutional.”

In general, courts in India addresses 3 kinds of actions by virtue of judicial review process:

- i. judicial review of legislative actions,
- ii. Judicial review of administrative actions, and
- iii. judicial review of judicial actions.

Here, we are mainly concerned with the judicial review of administrative actions as judicial review is the important tool to check the legality of administrative actions.

As we know about the evolution of Basic Structure doctrine in Constitution¹³, similarly the ultra-vires

¹¹ <https://blog.ipleaders.in/all-about-judicial-review/>, (last visited on 08 April, 2024).

¹² MP Jain and SN Jain, principles of Administrative Law, Lexis Nexis, 7th Edition, 2013

¹³ Kesavananda Bharti v. State of Kerala (1973) 4 SCC 225.

doctrine is the basic structure for the administrative law. It is regarded as the cornerstone of judicial review's ability to regulate executive branch operations. The term “ultra-vires” describes such an action that is exercised excessively or beyond the scope or authority of the acting party. In India, judicial review can be mainly granted on the following grounds:

- a) proportionality;
- b) irrationality and
- c) procedural impropriety

In the 1984 case¹⁴, Lord Diplock of England provided the afore-mentioned grounds for judicial review. Even if they are not all-inclusive, these grounds of judicial review offer the courts a suitable foundation on which they must operate.

Chapter 4: Effects of Procedural Impropriety

4.1 III- effects of lack of fair procedure

Depending on the situation, procedural impropriety can have several major outcomes, but some of the typical ones are as follows:

- i. **Legal challenges:** Inappropriate procedures may give rise to appeals or legal challenges. A judgment or action that is made outside the prescribed procedure could be reversed or subject to be challenged in court.
- ii. **Undermining equity:** A process's perceived or real fairness may be hampered by improper procedures. Failure of observance of laid fair procedures might result into arbitrariness, favoritism, biasness and it will undermine the actual fairness process in decision – making. Further the public confidence or faith in the system may be lost when processes are not followed correctly.
- iii. **Loss of credibility:** When essential procedures are not followed by the administrative authorities while making any decision or taking any action, then legitimacy and credibility of the institution or authority in charge of carrying them out may be harmed. The public's view and trust may be negatively impacted for some time by this loss of credibility.
- iv. **Inefficiency and confusion:** When established procedures are breached, an organization or system may become inefficient and confusing. It becomes challenging to guarantee that activities are completed successfully and that decisions are made on time when there are

¹⁴ Council of Civil Service Union v. Minister of Civil Service.

unclear and inconsistent procedures in place.

- v. Risk of mistakes and errors: Appropriate processes are frequently created to reduce the possibility of mistakes and errors. Errors are more likely to occur when procedures are not followed, and depending on the decision or action of the administrative authorities, these errors may have dire repercussions.

4.2 Judicial Review of governmental policy on the ground of procedural impropriety

Yes, governmental policy can be challenged on the grounds of procedural impropriety. Procedural impropriety refers to instances where the correct procedures or processes have not been followed in the formulation, implementation, or enforcement of a policy or decision by a governmental body. This could include failure to follow statutory procedures, failure to provide fair hearings, failure to consult relevant stakeholders, bias in decision-making, or failure to consider relevant evidence.

In many legal systems, there are mechanisms in place to challenge governmental decisions or policies based on procedural impropriety. These mechanisms might include judicial review, administrative appeals, or other forms of dispute resolution. If it is found that procedural impropriety has occurred, a court or other reviewing body may overturn or invalidate the policy or decision in question, or require that it be reconsidered using proper procedures.

It is important to note that the specific procedures for challenging governmental policy can vary depending on the legal system and the nature of the policy in question. Additionally, not all procedural errors will necessarily invalidate a policy; the severity of the impropriety and its impact on the fairness or legality of the decision will be important factors in determining the outcome of any challenge.

4.3 Rights and remedies available against violation of procedural norms

If administrative officials fail to observe procedural requirements, then before pursuing any formal legal action, it may be worthwhile to attempt negotiation or mediation with the said official to resolve the issue informally, otherwise there are many remedies that can be availed by the aggrieved, depending on the jurisdiction and the peculiar situations:

- i. Administrative Review or Appeals: Within the administrative system itself, many administrative processes have built-in procedures for review or appeal. This can entail requesting a review by an administrative tribunal or making an appeal to a higher authority

within the administrative body.

- ii. **Complaints to Regulatory Bodies or Ombudsman Offices:** Regulatory bodies that oversee monitoring administrative procedures may receive complaints from ombudsman offices or other offices in certain situations. These organizations have the power to look into allegations of irregularities in the procedure and even suggest changes.
- iii. In case of any deviation from the procedural norms or if the administrative officials fail to comply with the established procedure or the constitutional mandates, then the aggrieved individuals can also directly approach to Supreme Court and High courts by filing writs under article 32 and 226 of the Constitution.
- iv. **Mandamus:** Individuals who are aggrieved by the administrative decisions or actions can approach the suitable court/s through writ of mandamus in such legal systems where this writ is accessible. A mandamus is an order from a court requiring a public authority to carry out its legal obligations, that is, here the court will ask such authority to adhere to the correct protocols.
- v. **Public Interest Litigation:** In those situations where the authorities have failed to adhere to the prescribed procedural norms and as a result, it has far-reaching public consequences affecting the interest of mass of people, then in such a case even public interest litigation can be filed on the ground of procedural impropriety.
- vi. **Legislative Action:** In some specific situations, there might be some systemic loopholes with administrative procedures and it may necessitate legislative interference to resolve. This may entail arguing for changes to the applicable laws or regulations to ensure that adequate procedural safeguards are in place.

Judicial Review: Those who are impacted by the administrative decision taken without following the proper procedures, then such party may contest it in court if it is subject to judicial review. Courts have the jurisdiction to examine if the administrative authority followed the right procedure or not and if the decision was reasonable and lawful in the first place.

4.4 Procedural impropriety as a ground for Judicial Review

Indian courts play a crucial role in curing the defect of procedural impropriety through various mechanisms and processes. Procedural impropriety refers to any irregularity or failure to follow proper legal procedures during legal proceedings. Here's how Indian courts address this issue:

Firstly, Indian courts have the power of judicial review to examine the legality and correctness of administrative actions, including procedural impropriety. This ensures that administrative authorities follow proper procedures while making decisions.

Secondly, the Supreme Court and High Courts in India have been vested with the power to issue writs such as habeas corpus, mandamus, certiorari, prohibition, and quo warranto under Article 32 and Article 226 of the Constitution respectively. These writs can be used to correct procedural irregularities and ensure that justice is served. Indian courts also adhere to legal principles such as audi alteram partem (hear the other side) and nemo iudex in causa sua (no one should be a judge in his own cause), which ensure fair procedures are followed during legal proceedings. Indian courts often engage in judicial activism to protect the rights of citizens and ensure justice, including rectifying procedural improprieties when they come to light.

Courts in India have the authority to provide appropriate remedies and relief to parties affected by procedural impropriety. This may include setting aside decisions made improperly, ordering retrials, or directing authorities to follow correct procedures. These days Indian courts have increasingly adopted case management techniques to ensure efficient and fair resolution of cases. This includes monitoring the adherence to procedural rules and intervening when necessary to correct improprieties. The Courts also rely on legal precedents to guide their decisions. Precedents often emphasize the importance of procedural fairness, and courts use past judgments to ensure consistency and fairness in their rulings. Indian courts often contribute to legal reforms aimed at improving procedural rules and practices to prevent future instances of impropriety and ensure the smooth functioning of the justice system.

Overall, Indian courts play a vital role in curing the defect of procedural impropriety by upholding the rule of law, ensuring fair procedures, and providing effective remedies to aggrieved parties.

As held in the case of Council of Civil Services Unions v. Minister for the Civil Service¹⁵, procedural impropriety is also one of the grounds for judicial review along with the illegality and irrationality. That is, if any administrative officials fail to comply with the fair procedures, procedures established

¹⁵ (1984) 3 All ER 935.

in the concerned statute or application of principle of natural justice, it will result in procedural impropriety and can be challenged as a ground of judicial review.

Chapter 5: Criticism, Suggestions and Conclusion

Criticism: -

Procedural impropriety under administrative law can arise from various perspectives, including legal scholars, practitioners, and affected parties. Some of common criticisms include:

- i. Procedural requirements in administrative law can sometimes lead to inefficiencies and delays in decision-making. Critics argue that overly complex or burdensome procedures may hinder the timely resolution of administrative matters, causing frustration for all parties involved.
- ii. Some critics argue that a focus on procedural technicalities may sometimes overshadow the substantive merits of administrative decisions. This can lead to situations where decisions are challenged or overturned not because they are fundamentally flawed but because of procedural errors that do not affect the outcome or fairness of the decision¹⁶.
- iii. Administrative procedures can be complex and difficult to navigate, particularly for individuals or small organizations without legal expertise. This complexity may disproportionately disadvantage marginalized or vulnerable groups who may struggle to assert their rights effectively in administrative proceedings.
- iv. It is also one of the pertinent facts that the increasing judicialization of administrative law, where courts play a significant role in reviewing administrative decisions, contributes to procedural rigidity and legalism. This can lead to a culture of litigation where disputes are resolved through adversarial legal processes rather than through more efficient administrative mechanisms.
- v. Procedural rules in administrative law are often rigid and prescriptive, leaving little room for flexibility or adaptation to the specific circumstances of individual cases. Due to this lack of flexibility, it may prevent administrative bodies from responding effectively to complex or evolving situations, leading to outcomes that are unjust or impractical.
- vi. Administrative procedures can impose significant administrative burdens on government agencies, businesses, and individuals alike. Critics argue that excessive procedural

¹⁶ <https://www.oxfordlawtrove.com/display/10.1093/he/9780192857460.001.0001/he-9780192857460-chapter-14>, (last visited on 08 April, 2024).

requirements may divert resources away from core functions, stifle innovation, and discourage public participation in administrative processes.

- vii. While administrative law typically provides avenues for challenging decisions affected by procedural defects, critics argue that these remedies may be insufficient or inaccessible in practice. For example, the costs and complexities associated with judicial review may deter individuals from seeking redress for procedural errors, particularly in cases involving small-scale disputes or matters of public interest.
- viii. The interpretation and application of procedural rules in administrative law can vary across jurisdictions and over time, leading to inconsistency and uncertainty in the law. Critics argue that this lack of uniformity may undermine the predictability and coherence of administrative decision-making, creating challenges for both administrators and those affected by their decisions.

Overall, while procedural requirements in administrative law play a crucial role in safeguarding fairness, accountability, and the rule of law, criticisms highlight the need for a balanced approach that prioritizes efficiency, accessibility, and flexibility while maintaining procedural integrity.

Suggestions: -

Addressing procedural impropriety under administrative law requires a multifaceted approach aimed at promoting fairness, efficiency, transparency, and accountability in the administrative process. Here are some suggestions to cure the defects of procedural impropriety¹⁷:

- i. **Clear and Accessible Procedures:** Administrative procedures should be designed to be clear, understandable, and accessible to all parties involved. Providing guidance documents, plain language explanations, and online resources can help individuals navigate the administrative process more effectively.
- ii. **Training and Education:** Administrative decision-makers and staff should receive adequate training on procedural requirements, including principles of procedural fairness, bias mitigation, and effective communication. Ongoing education programs can help ensure that administrators understand their obligations and responsibilities under administrative law.
- iii. **Procedural Checklists and Guidelines:** Developing standardized procedural checklists and

¹⁷ <https://www.lawctopus.com/academike/grounds-judicial-review-123/>, (last visited on 08 April, 2024).

guidelines can help ensure that administrative bodies follow consistent procedures and avoid common pitfalls. These tools can serve as practical aids for decision-makers and help minimize the risk of procedural errors.

- iv. **Independent oversight and Review:** Establishing independent oversight mechanisms, such as ombudsperson offices or administrative review boards, can provide an additional layer of scrutiny to identify and address procedural impropriety. These bodies can investigate complaints, conduct audits, and make recommendations for improving administrative processes.
- v. **Alternative Dispute Resolution:** Promoting the use of alternative dispute resolution mechanisms, such as mediation or arbitration, can offer parties a more flexible and cost-effective means of resolving disputes outside of formal administrative proceedings. This can help alleviate some of the burdens associated with litigation and foster more collaborative problem-solving approaches.
- vi. **Enhanced Transparency and Public Participation:** Administrative bodies should strive to enhance transparency in their decision-making processes by providing reasons for decisions, maintaining accessible records, and soliciting feedback from stakeholders. Encouraging public participation through consultation processes and public hearings can also help improve the legitimacy and accountability of administrative actions.
- vii. **Proportionate Remedies:** Ensuring that remedies for procedural defects are proportionate to the severity of the violation can help strike a balance between accountability and administrative efficiency. Tailoring remedies to the specific circumstances of each case and considering factors such as the impact on affected parties and the public interest can help promote fair and effective resolution of procedural disputes.
- viii. **Continuous Evaluation and Improvement:** Regularly evaluating administrative procedures and soliciting feedback from stakeholders can help identify areas for improvement and ensure that procedural requirements remain responsive to evolving needs and challenges. Administrators should be open to adopting best practices and making necessary adjustments to enhance the overall quality and effectiveness of administrative processes.

By implementing these suggestions, administrative bodies can work towards minimizing the occurrence of procedural impropriety and promoting a more robust, fair, and accountable administrative system.

Conclusion: -

To conclude, procedural impropriety under administrative law can have significant ramifications for the fairness, legality, and legitimacy of administrative actions. When administrative bodies fail to adhere to proper procedures, it can lead to serious consequences for affected parties and the integrity of the administrative process.

Firstly, procedural impropriety undermines the principles of procedural fairness and due process, which are fundamental to the rule of law. Denying affected parties, the opportunity to be heard, failing to provide reasons for decisions, or displaying bias erodes trust in the administrative system and can lead to perceptions of injustice.

Secondly, procedural impropriety can result in decisions that are legally invalid or unlawful¹⁸. When administrative actions are tainted by procedural defects, affected parties may have grounds to challenge those actions through legal avenues such as judicial review. This can lead to decisions being quashed or overturned, causing delays, uncertainty, and potentially significant consequences for individuals, organizations, or the public interest.

Furthermore, procedural impropriety can erode accountability and transparency in administrative decision-making. Without adherence to proper procedures, it becomes difficult to ensure that decisions are made impartially, based on all relevant evidence, and in accordance with the law. This can undermine public confidence in the administrative process and weaken the effectiveness of administrative bodies in fulfilling their functions.

In summary, the effects of procedural impropriety under administrative law are far-reaching and detrimental. It undermines procedural fairness, leads to legally questionable decisions, and diminishes accountability and transparency. Addressing procedural impropriety requires vigilance in upholding procedural standards, ensuring adherence to legal requirements, and providing effective mechanisms for redress when procedural defects occur. By upholding procedural integrity, administrative bodies can better fulfill their obligations and maintain public trust in the legitimacy of their actions.

¹⁸ <https://www.lawteacher.net/lectures/public-law/judicial-review/applications-grounds-remedies/>, (last visited on 08 April, 2024).