SIGNIFICANCE OF RIDGE V BALDWIN IN JUDICIAL REVIEW OF

ADMINISTRATIVE ACTIONS

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Introduction

Judicial review refers to the process by which the judicial arm of government oversees the executive arm by determining whether decisions made by administrative bodies and other specific institutions are within the scope of the powers conferred upon the body or institution. The core function of judicial review is to check the excesses of executive function and prescribe remedies to the aggrieved subject. This essay discusses how the landmark decision of the House of Lords in Ridge v. Baldwin 1964) A.C 40, has played a significant role in permanently incorporating principles of natural justice into administrative law as basis for judicial review.

The Case

Ridge was prosecuted on conspiracy and corruption charges, and though he was acquitted, the trial judge had made adverse comments about his leadership. The Watch Committee which had been mandated by the Municipal Corporations Act to dismiss any constable whom they thought was negligent in the discharge of his duty, sacked Ridge. On appeal to the Secretary of State whose decision was final and binding the dismissal was upheld. Ridge then commenced writ proceedings for a declaration that the dismissal was void. The House of Lords held that the declaration would be granted. The committee had violated the procedures set out by the Police Regulations, and also there was lack of natural justice; Ridge had neither been told of the reasons for his dismissal nor given an opportunity to test the evidence before the Watch Committee.

The Significance of the Case

The landmark case played a major role in permanently incorporating principles of natural justice into administrative law. Before this case, natural justice principles were not

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2 Ibid.
applicable as law in administrative decision issues, and rulings were made based on principles outlined by the Donoughmere Committee. This case brought about certain results that are key in current day practice of administrative law. Most important is firmly establishing general principles of natural justice as part of administrative law. Natural justice is a terminology used to refer to a broader set of principles that ultimately seek to protect the rights of those subject to the governmental power. However, of the many principles, there are two main ones that can confidently be called the pillars of natural justice. These are the rule against bias (*Nemo iudex in causa sua*) and the right to a fair hearing (*audi alteram partem*).

*Audi alteram partem* encompasses two sub-principles which are right to adequate prior notice of the charges or allegations you are facing and right to be given a reasonable opportunity to put your case which may include right to call a witness, to cross-examine or to be given reasons for decisions. *Ridge v. Baldwin*, provided a firm basis for this principle to be entrenched in administrative law. Mr. Ridge had not been given a chance to plead his case and defend his actions before the Watch Committee before he was sacked. Furthermore, he was not given adequate notice prior to his dismissal. This was in clear violation of his right to a fair hearing and thus was one of the bases upon which his cause was heard by the court.

This made it possible for other aggrieved parties to bring matters before the court on the basis that their right to a fair hearing had been denied. It further obliges administrative bodies to make decisions taking into account the principles of natural justice with regard to the person who will be affected by the decision. Failure to which, an aggrieved party can move to court, and if it found that their right to a fair hearing was denied, the court may

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prohibit the body from implementing the decision and oblige them to give the party a fair hearing.

When a decision is made by any public body, it must provide reasons as to how a decision was reached either orally or in writing. In this case, no such reason was given thus violating her right to notice. In the case of *Gazettement & Publicity Mwangi v. Republic* (1950) KLR vol. 24, the accused were convicted of overcharging because the price controller had not published the new prices in the Gazette. The court held that where such a change in price has been made, the price controller must give rise to the notice in such a manner as he thinks necessary to notify the person who in his opinion might need to know these changes. Currently, it is not necessary to use the Gazette as a medium for such notices, but one must give public notice in such a manner as to notify persons who might be affected by such notices.

In the case of the *County Government of Nyeri and another v Cecilia Wangchei Ndungu* (2015) eKLR, the respondent was the dismissed County Executive Secretary in charge of Culture, Gender, and Social Development. The respondent herein had first filed a petition in the Industrial Court of Kenya seeking a declaration that the act of the second appellant of relieving her of her duties was in breach of her constitutional rights under article 27(1),(2),(3) and an order of Judicial review to quash the decision of the second appellant. The industrial court ruled in favor of the respondent herein. In giving their judgment, the industrial court judge held that the second respondent (second appellant herein) had breached the rights of the petitioner herein as the second respondent under the constitution of Kenya 2010 and also the second respondent actions were arbitrary.

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5 *Gazettement & Publicity Mwangi v. Republic* (1950) KLR.
6 *County Government of Nyeri and another v Cecilia Wangchei Ndungu* (2015) eKLR
On the basis that he had failed to uphold rules of natural justice and his decision to dismiss the second respondent was unconstitutional and void an appeal to the court of Appeal by the second appellant was quashed, and the decision of the trial court was upheld. The court of appeal ruled that indeed the second respondent’s right to fair administrative action as enshrined in article 47\(^8\) of the Constitution of Kenya 2010 was breached by the second appellant. The judge also added that though the second appellant was performing an administrative function, it was subject to judicial review.

This principle of the right to be heard has ensured that every accused person is given a fair hearing before imposing any punishment if found guilty. It helps put to practice the phrase “justice should not only be done but should be seen as done.” In the case of Onyango V. Attorney General (1986-1989) EA 456\(^9\). Nyarangi, JA asserted at page 459: that the principle of natural justice applies where ordinary people who would reasonably expect those making decisions which will affect others to act justly. The learned judge added that decision in breach of the rules of natural justice is not cured by holding that the decision would otherwise have been right. If the principle of natural justice is violated, it matters not that the same decision would have been arrived at.

**Conclusion**

By developing the principles of natural justice from the case of Ridge v. Baldwin, the Courts have therefore devised a kind of code of fair administrative procedure, by imposing a particular procedural technique on government departments and statutory authorities, to require them to be exercised in a manner that is procedurally fair where the procedure is not a matter of secondary personal gains. Thus, the rules of natural justice emerging from this case have are indeed necessary minimum standards of fair decision-making imposed on persons.

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\(^8\) Constitution of Kenya 2010.

Bibliography


*Gazettatement & Publicity Mwangi v. Republic* (1950) KLR.

*R v Kenya National Examination Council ex parte Regina Kemunto Ouru and others* (2009), eKLR

