



NATIONAL OPEN UNIVERSITY OF NIGERIA
14/16 AHMADU BELLO WAY, VICTORIA ISLAND, LAGOS
SCHOOL OF LAW

COURSE CODE: LAW444

COURSE TITLE: ADMINISTRATIVE LAW II

TIME ALLOWED: 3 HOURS

INSTRUCTION: QUESTION ONE IS COMPULSORY AND YOU ARE TO ANSWER ANY OTHER THREE (3) QUESTIONS. **All questions carry 17.5 marks**

COMPULSORY QUESTION

Rose Konto Mahmud had a passport for going abroad. It was issued to her on 1st June 1976 under the Passports Act, 1967. On 4th July, 1977, she received a letter from the Regional Passport Officer. That letter conveyed to her the decision of the Government to impound her passport and called upon her to surrender the same within seven days. No reason was, however, assigned in support of the decision to impound the passport. What was disclosed is that it was done in public interest.

She wrote back to the passport officer demanding a copy of the statement of reasons as provided for under Section 10(5) of that Act. A reply came, not from the passport officer, but from the Minister of External Affairs, on 6th July, 1977. The Government declined to furnish reasons from what was described as “in the interest of the general public”. Thereupon, she filed a petition under Article 32 of the Constitution before the Supreme Court. She challenged the action of the Government in impounding her passport and declining to give reasons.

The important legal issues that came up for decision may be outlined as follows:

- (i) Should the rule of “*audi alter partem*” be read into a statute, which authorizes an administrative body to decide to the prejudice of a person but does not expressly provide for a prior hearing to be given to the person likely to be affected by such decision?
- (ii) Can a post-decisional hearing adequately compensate absence of hearing before taking of decision?
- (iii) Is it incumbent upon an administrative authority to observe the principles of Natural Justice?
- (iv) Are the principles of Natural Justice embodied or written rules?

(v) Are they amenable to situational variations?

(iv) What are the effects of breach of Natural Justice committed by an administrative authority?

Will you kindly determine these points of Law? They have been raised for you to decide.

2. Kekerekun District Council has statutory powers relating to the ownership and management of playing fields and recreational open spaces. It recently bought a large field from Gladys Rollafella for use as a playing field. Gladys is passionate about football so when purchasing the land the Council promised her that the proposed new playing field would only be used for football. The playing field has been in use for 2 months. Gladys is now the manager of one of the football teams that use it for local league matches. Her team is called 'Goodluck's Cubs' named after the First Lady. The Council, which is party-controlled, uses its land management powers to ban Goodluck's Cubs from playing on the playing field until it changes its name to its name. Gladys and the team players do not wish to change the team's name. The Council has also decided, following representations from local organizations representing other sports that the playing field is from now on to be used not just for football. It already has firm fixtures for hockey, rugby and cricket.

Advise Gladys upon

- Legal grounds of challenge to what the Council has done; and
- Likely remedy or remedies, should she win.

3. What constitutes Bias as a ground for Judicial Review?

b) What are the procedural requirements for someone to be able to bring a court action in Judicial Review?

4. In the **GCHQ Case (1985)**, Lord Diplock classified the grounds on which administrative action is subject to judicial control under three heads, namely,

- a. illegality,
- b. irrationality, and
- c. procedural impropriety.

He also said that further grounds may be added as the law developed on a case-by-case basis.

Discuss any **two** of headings with judicial and statutory authority.

5. Rural development of the grassroots has been the concern of every responsible and responsive political system. This is because development and participation have continued to elude people of the grassroots.

Critically discuss these difficulties and illuminate the factors that are responsible for them.

6. The National Parliament in Toronto Republic has decided to create an authority which will have the power to make rules regulating the power sector of the economy of the country. In pursuance of that purpose, the National Parliament by an Act of Parliament established the National Electric Authority (NEC) that has the sole authority of making rules and regulations with respect to bulk purchase of electricity and distribution in the country. The NEC, in exercise of its authority has realized that it lacks competence to regulate issues relating to bulk purchase of electricity being a matter that requires high technical competence. The NEC believes that in order to actualize its objectives, it ought to empower another independent authority to make rules relating to bulk purchase of electricity. Accordingly, NEC has empowered APZ Technical to make rules regulating Toronto Republic. APZ Technical has made rules regulating bulk purchase of electricity in Toronto Republic. DENCO Distribution is one of the companies in Toronto Republic that engages in electricity bulk purchases and distribution. DENCO believes that the rules made by APZ technical are not to its best interest. Denco Distribution has commenced action in the Federal High Court contending that APZ Technical does not have the jurisdiction to make rules regulating bulk purchase of electricity in Toronto Republic. Discuss the legal issues herein.