

Northwest ecosystem alliance v. washington forest practices board

Law



Administrative Court Case: Administrative procedures must be exhausted before Appeals to Court. Case taken up: Northwest Ecosystem Alliance v. Washington Forest Practices Board, 149 Wn. 2d 67, 66 P. 3d, 2003 WL 1848694.

Issues:

During 1998, several environmentalist groups comprising of the " Northwest Ecosystem Alliance, The Mountaineers, Alpine Lakes Protection Society, Kettle Range Conservation Group, Whidbey Environmental Action Network, and Pilchuck Audubon Society", filed a suit under the Administrative Procedure Act (APA) with the Thurston County Superior Court seeking compliances of mandatory forest practices by Washington State Forest Practical Board. (NWEA v Washington State Forest Practices Board: Clients). The plaintiffs argued that enforcement of the various forest practices, envisaging the due process of conservation and preservation of marine life, aqua resources, wild life, etc., were severely compromised by the Washington State Forest Practices Board, which was responsible for maintenance and enforcing of valid forest practices. Although the Board had enforced certain water related legislatures, it had failed to address to the larger needs of enforcement of forest practices and rules, thus leading to a severe erosion of its credibility, and grossly undermined its performance as a premier forest conservation authority.

Rules:

The Board and others argued that the plaintiffs did not have the authority to approach a court without first using up all the other available administrative procedures and avenues available under law. Under the Rules, it was first

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necessary for the plaintiffs to initiate an appeal for rule-making procedure seeking the Board's intervention for changing its rules.

The complainants had not adhered to this rule. Hence the Court should not consider this

complaint. During May 1999, the Thurston Court dismissed the case citing that the due process of petition for rule making had not been followed in this case.

The plaintiffs however, appealed this verdict in the Washington State Courts of Appeal.

Application:

The Washington State Appeal Court overturned the decision of the country court, stating that the petition for rule making procedure was " a permissive not a mandatory process."

(NWEA v Washington State Forest Practices Board: Background).

Thus according to the decision of Appeal Court in April 2002, the lower Court judge had committed a mistake in his pronouncement, by delivering the wrong judgment, and had also made mistakes in other elements of the case.

This time round, the defendants, Washington State Forest Practices Board appealed against the decision of the Appeals Court in the Washington State Supreme Court.

Conclusions:

The decision of the Supreme Court in this case makes interesting reading. It upheld the validity of both plaintiffs and defendants, but in parts. While the Court ruled that the plaintiffs need to follow the petition for rule making procedure before seeking a decision, it was also decided by the Courts, that

no decision could be forthcoming, while such rules were being subjected to necessary changes.

The Courts did not detail in its verdict regarding the process and procedure of rule-making nor did it delineate when the procedure would end and the appeal matter taken up.

In other words, it could be inferred that the defendants, (aided by favorable courts) had taken consolation and refuge behind the procedure of rule making, to renege on its duties and responsibilities to address the genuine concerns of environmentalists and their genuine grievances that are of major significance for ecological preservation and conservation.

However, the rule of exhausting all available administrative remedies is not always validated.

It is seen that in the case of Keokuk County, Iowa v. H. B. (1999), the issue of administrative and monetary care of mentally disabled people in Iowa was considered. However, " the district court overruled the motion for summary judgment and found in the written ruling following the trial that there were no administrative remedies available for the county to exhaust." (In the Supreme Court of IOWA: Exhaustion of Remedies).

Thus, it would be injudicious to refer cases for administrative review. The significant aspects would be with regard to whether the case merits administrative review or petitioning before being heard by a Court of law, and need not be used indiscriminately in order to avoid court intervention in genuine grievances and appeals involving public bodies and their functioning.

Works Cited

In the Supreme Court of IOWA: Exhaustion of Remedies. www. judicial. state. ia. us. 1999. 24 Nov. 2008. .

NWEA v Washington State Forest Practices Board: Clients. Washington Forest Law Center: Protecting the Environment by Providing Legal Services for Forest Cases of Statewide Significance. 24 Nov. 2008. .

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