

“Interpretation of Statutes Harmonious Construction- A Critical Analysis”

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ABSTRACT

Because it aids in resolving disputes or discrepancies between various provisions of a single statute or between several acts, the principle of harmonious construction in the interpretation of statutes is pertinent in the subject of law. Harmonious construction seeks to give effect to all the provisions concerned while avoiding making any provision unnecessary or incongruent. This idea is founded on the knowledge that each statute has a distinct goal and intent, and that to arrive at a consistent and accurate interpretation, the provisions should be viewed. When using the principle of harmonious construction, the courts' principal goal is to make sure that contradictory laws are resolved in a way that maintains the legislature's overall meaning. The courts work to interpret laws in a way that harmonizes their meaning and effect to avoid a direct conflict between provisions that conflict with one another. The relative nature of the provisions is another factor considered by the courts, which occasionally favors the more detailed provision over the more general one. The courts attempt to give effect to both clauses to the greatest extent practicable where complete reconciliation of conflicting provisions is not possible. No provision should, however, be rendered obsolete or redundant because of the interpretation. The courts must strike a balance and determine an interpretation that achieves a cogent result while upholding the integrity of each law. Conflicts between one statute and other statutes, as well as those between statutory regulations and orders, can be resolved using the principle of harmonic construction. It aids in deciphering the legislative intent and guarantees that the goals and purposes of the statutes are achieved.

In addition to the harmonious construction concept, courts also consider the literal rule, the golden rule, the mischief rule, and intrinsic and extrinsic assistance when interpreting statutes. These guidelines and tools offer further direction for deciphering the intent and interpretation of statutes.

Overall, by encouraging consistency, eliminating conflicts, and giving weight to the intention and design of the legislation, the principle of harmonious structure plays a critical role in statutory interpretation. It makes sure that laws are applied in a way that maintains their authors' intentions and promotes justice.

Keywords- Intrinsic aids, Extrinsic aids, Finality of published awards, Literal rule, Golden rule, Mischief rule.

INTRODUCTION

The convention or the control of agreeable development is embraced when there is a contention between at least two statutes or between the parts or arrangements of the statutes. According to this teaching the courts attempt to keep away from clashes between the arrangements of the statutes. The principle takes after an exceptionally straightforward decision that each statute has made for a reason and particular plan according to law, and it ought to be perused all in all and deciphered in a like manner. In this manner the arrangements are interpreted to the point that the contention between the two statutes or their arrangements is kept away from and every one of them is given impact. For this reason, the degree and importance of one might be limited to give meaning likewise to the next. In this way, the point of the courts is:

- I) A translation which makes the authorization steady.
- II) A development which maintains a strategic distance from irregularity or repugnancy between the different segments or parts of the statute. Be that as it may, for the situation in which it will be difficult to fit both the arrangements, the court's choice will win.

As indicated by this lead, a statute ought to be perused in general and one arrangement of the Act ought to be understood with reference to different arrangements in a similar Act to make a steady authorization of the entire statute. Such an interpretation is gainful in evading any irregularity or repugnancy either inside an area or between a segment and different parts of the statute. The five fundamental standards of this govern are:

1. The courts must avoid a head-on clash of seemingly contradicting provisions and they must construe the contradictory provisions to harmonize them.
2. The provision of one section cannot be used to defeat the provision contained in another unless the court, despite all its effort, is unable to find a way to reconcile their differences.
3. When it is impossible to completely reconcile the differences in contradictory provisions, the courts must interpret them in such a way so that effect is given to both the provisions as much as possible.
4. Courts must also keep in mind that interpretation that reduces one provision to a useless number or dead is not harmonious construction.
5. To harmonize is not to destroy any statutory provision or to render it fruitless.

RULES OF STATUTORY INTERPRETAION

The term statutory interpretation refers to the action of a court in trying to understand and explain the meaning of a piece of legislation. Many cases go to appeal on a point of interpretation, indeed, Lord Hailsham, a senior English judge, once said that “probably 9 out of

10 cases heard by the Court of Appeal and the House of Lords turn upon or involve the meaning of words contained in statute or secondary legislation.”

Why is this the case? First, laws must be drafted in general terms and must deal with both present and future situations. Often, a law which was drafted with one situation in mind will eventually be applied to quite different situations. A classic example is the UK Criminal Justice Act, part of which was originally designed to curb illegal warehouse parties, but which was later used to crush demonstrations, often involving people from very different backgrounds to those attending the so-called raves.

Legislation is drawn up by draftsmen, and a draftsman’s capacity to anticipate the future is limited. He may not foresee some future possibility or overlook a possible misinterpretation of the original intentions of the legislation. Another problem is legislation often tries to deal with problems that involve different and conflicting interests.

Both legitimate and general English contain numerous words within excess of one importance. Truth be told, a portion of the terms in TransLegal’s Legal English Dictionary have at least seven unmistakable definitions. With this being the situation, even the best drafted enactment can incorporate numerous ambiguities. This isn’t the blame of the sketcher, basically an impression of the way that where individuals take a gander at a content from various perspectives, they will normally discover distinctive implications in the dialect utilized. Judges in England for the most part apply three essential standards of statutory elucidation, and comparable guidelines are likewise utilized in other custom-based law locales. The exacting principle, the brilliant run and the wickedness run the show. Although judges will undoubtedly apply these principles, they by and large take one of the accompanying three methodologies, and the approach taken by any one specific judge is regularly an impression of that judge’s own reasoning.

THE LITERAL RULE

Under the literal rule (also: the ordinary meaning rule; the plain meaning rule), it is the task of the court to give a statute’s words their literal meaning regardless of whether the result is sensible or not. In a famous judgment, Lord Diplock in *Duport Steel v Sirs* (1980) said “The courts may sometimes be willing to apply this rule despite the manifest absurdity that may result from the outcome of its application.” The literal rule is often applied by orthodox judges who believe that their constitutional role is limited to applying laws as enacted by Parliament. Such judges are wary of being seen to create law, a role which they see as being strictly limited to the elected legislative branch of government. In determining the intention of the legislature in passing a particular statute, this approach restricts a judge to the so-called black letter of the law. The literal rule has been the dominant approach taken for over 100 years.

THE GOLDEN RULE

The golden rule (also: the British rule) is an exception to the literal rule and will be used where the literal rule produces the result where Parliament's intention would be circumvented rather than applied. In *Grey v Pealson* (1857), Lord Wensleygale said: "The literal rule should be used first, but if it results in absurdity, the grammatical and ordinary sense of the words may be modified, so as to avoid absurdity and inconsistency, but no further."

One example of the application of the golden rule is the case of *R v Allen* – Defendant is charged with bigamy, an offence prohibited in Offences Against Persons Act 1861 which reads "whoever is married, marries another commits bigamy." The court held that the word "marries" need not mean a contract of marriage as it was impossible for a person who is already married to enter another valid contract of marriage. Hence, the court interpreted it as "going through marriage ceremony".

THE MISCHIEF RULE

The final rule of statutory interpretation is the mischief rule, under which a judge attempts to determine the legislator's intention; what is the "mischief and defect" that the statute in question has set out to remedy, and what ruling would effectively implement this remedy? The classic statement of the mischief rule is that given by the Barons of the Court of Exchequer in *Heydon's Case* (1564): "...for the sure and true interpretation of all statutes in general, four things are to be discerned and considered:

1. What was the common law before the making of the Act?
2. What was the mischief and defect for which the common law did not provide?
3. What remedy the Parliament hath resolved and appointed to cure the disease of the Commonwealth?
4. The true reason of the remedy; and then the office of all the judge is always to make such construction or shall suppress subtle inventions and evasions for continuance of the mischief and pro private commodo, and to add force and life to the cure and remedy, according to the true intent of the makers of the Act, pro bono public.

This arrangement of depending on outer sources, for example, the customary law in deciding the genuine expectation of the parliament is presently observed as a feature of the purposive approach, the approach for the most part taken in the common law wards of territory Europe. Although the strict approach has been predominant in customary law frameworks for over a century, judges currently seem, by all accounts, to be less bound by the dark letter of the law and are additionally eager to endeavor to decide the genuine expectation of the Parliament. The

undertaking of the judge is presently observed as being offered impact to the authoritative motivation behind the statute being referred to.

As well as these three rules of interpretation, there are several rules that are held to apply when determining the meaning of a statute:

1. The statute is presumed not to bind the Crown
2. Statutes do not operate retrospectively in respect to substantive law (as opposed to procedural law)
3. They do not interfere with legal rights already vested
4. They do not oust the jurisdiction of the courts
5. They do not detract from constitutional law or international law

Finally, there are several intrinsic (=internal) and extrinsic (=external) aids to statutory interpretation.

Intrinsic (Internal) Aids to Statutory Interpretation –

These are things found within the statute which help judges understand the meaning of the statute more clearly.

- The long and the short title
- The preamble
- Definition sections
- Schedules
- Headings

Extrinsic (External) Aids to Statutory Interpretation -

These are things found outside of the actual statute which may be considered by judges to help them understand the meaning of a statute more clearly.

- Dictionaries
- Historical setting
- Previous statutes
- Earlier case law
- Hansard
- Law Commission Reports
- International Conventions

RULE OF HARMONIOUS CONSTRUCTION

According to this rule, a statute should be read as a whole, and one provision of the Act should be construed with reference to other provisions in the same Act to make a consistent enactment of the whole statute. Such an interpretation is beneficial in avoiding any inconsistency or repugnancy either within a section or between a section and other parts of the statute. The five main principles of this rule are:

- 1) The courts must avoid a head-on clash of seemingly contradicting provisions and they must construe the contradictory provisions to harmonize them.
- 2) The provision of one section cannot be used to defeat the provision contained in another unless the court, despite all its effort, is unable to find a way to reconcile their differences.
- 3) When it is impossible to completely reconcile the differences in contradictory provisions, the courts must interpret them in such a way so that effect is given to both the provisions as much as possible.
- 4) Courts must also keep in mind that interpretation that reduces one provision to a useless number or dead is not harmonious construction.
- 5) To harmonize is not to destroy any statutory provision or to render it fruitless.

RESEARCH QUESTIONS

Q-1) What is the relevance of the principle of Harmonious Construction writ Interpretation of Statutes in the field of law?

A recognizable approach in every single such case is to discover which of the two clearly clashing arrangements is broader and which is more particular and to interpret the broader one to avoid the more specific. The question about the relative idea of the arrangements, general or uncommon, must be resolved with reference to the region and degree of their application either by and large or exceptionally specifically situations. This rule is communicated in the sayings *Generalia specialibus non derogant*, and *Generalia specialibus derogant*. The previous implies that general things don't criticize from exceptional things and the last implies that extraordinary things disparage from general things. The administration of agreeable development can likewise be utilized for settling a contention between an arrangement in the Act and a government made under the Act. Further this standard is likewise used to determine a contention between two unique Acts and really taking shape of statutory guidelines and statutory requests. Be that as it may, if there are two solutions for a circumstance, one general and one, and both are conflicting with each other, they keep on holding useful for the concerned individual to browse, until the point when he chooses one of them.

A vital inquiry with regards to the intensity of courts to choose an issue of benefit concerning reports identifying with undertakings of State was replied by the Supreme Court by orchestrating Sections 123 and 162 of the Indian Evidence Act, 1872. The affirmation of the Head of the

Department or the Minister isn't definitive that a specific archive identifies with the issues of the State. The conclusion of the Head of the Department or the Minister is available to legal survey and if fundamental the court can review the record. In settling on the topic of benefit the court needs to adjust the general population intrigue which requests the withholding of the report against the general population enthusiasm for the organization of equity that the courts ought to have fullest conceivable access to every single important material and in the subject's privilege of data under Article 19(1)(a) of the Constitution. The guideline of amicable development is likewise material if there should be an occurrence of development of arrangements of subordinate enactment. An interesting question arose in the case of **Sirsilk Ltd. v. Govt. of Andhra Pradesh**. Certain disputes between the employer and the workmen were referred to an industrial tribunal. After adjudication, the tribunal sent its award to the government for publication. However, before the award was published, the parties to the dispute came to a settlement and accordingly, wrote a letter to the government jointly, intimating the fact that the dispute had been settled; hence the award shall not be published. On the government's refusal to withhold the publication, the employer approached the High Court for a writ or direction to the government to withhold the publication.

The High Court rejected the writ petition as well as the writ arising therefrom.

The parties then appealed for special leave to the Supreme Court.

The main contention of the appellants was that Section 17 of the Industrial Disputes Act, 1947 is directory in nature and not mandatory.

A mandatory statute or statutory provision is one which must be followed in order that the proceeding to which it relates may be valid. A directory statute or provision is one which need not be complied with in order that the proceeding to which it partakes may be valid. It is not always easy to determine whether a particular statute is mandatory or directory. If the provision involved relates to some immaterial matter, where compliance is a matter of convenience rather than substance, or directs certain actions with a view to the proper, orderly, and prompt conduct of public business, the provision may be regarded as directory, but where it directs, acts or the proceedings are required to be done in a certain way and indicates that a compliance of such provision is essential to the validity of the act of proceeding, or requires some antecedent and prerequisite conditions to exist prior to the exercise of the power, or be performed before certain other powers can be exercised, the statute may be regarded as mandatory.

Ordinarily the words 'shall' and 'must' are mandatory, and the word 'may' be directory, although they are often used interchangeably in legislation.

The language of Section 17 was observed by the court. Section 17(1) states, 'Every award shall within a period of thirty days from the date of its receipt by the appropriate government be published in such manner as the appropriate government thinks fit.'

The use of the word 'shall', the court observed, is a pointer to Section 17(1) being mandatory in nature. Section 17(2) states, 'Award published under sub-section (1) shall be final and shall not be called in question by any court in any manner whatsoever.'

Section 17A, of the Industrial Disputes Act, provides that the award under Section 17 becomes enforceable after thirty days of publication, though the government may declare certain contingencies in which it may not be enforceable.

The court read Section 17 and Section 17A together and declared that the intention behind Section 17 is that the duty cast on the government to publish the award is mandatory and not directory. And hence, the contention of the appellants did not hold good.

But on further observation, the court directed its attention to Section 18 of the Industrial Disputes Act. Section 18 (1) provides that a settlement arrived at by agreement between the employer and the workmen otherwise than during conciliation proceeding shall be binding on the parties to the agreement. Section 18 (2) provides that an award which has become enforceable shall be binding on all parties to the industrial dispute and others.

The second contention of the appellant was that the main purpose of the Industrial Disputes Act is to maintain peace between the parties in an industrial concern. Therefore, in the present case, since the parties have already come to a settlement under Section 18 (1), the dispute between them comes to an end. Thus, the settlement arrived at should be respected and industrial peace should not be allowed to be disturbed by the publication of the award which might be different from the settlement.

The court then referred to the case of **State of Bihar v. D.N. Ganguly** where a settlement had been arrived at between the parties and the industrial dispute was pending before the tribunal. Thus, in the above case, the principle of harmonious construction was employed. The Supreme Court's choice is a fine case of how the arrangements of one area can be authorized without rendering the arrangement of another segment of the statute dead or pointless. Under work law, settlement between the gatherings is given more significance than an honor declared by a court. In the present case, since it was an excellent situation, the production of the honor was withheld. The limit on the administration to not distribute the honor guaranteed that the target of the Industrial Disputes Act, 1947 i.e., to keep up peace between the gatherings, was not vanquished and the obligatory idea of Section 17 of the Act was additionally not wrecked. This case is a case of the utilization of the rule of agreeable development in a circumstance where two arrangements in a similar statute are in strife with each other.

Steps for employing the doctrine of harmonious construction:

From the above illustrations we can see that the principle of harmonious construction for its application requires the following four steps:

- i. That both the provisions which are conflicting and are repugnant to each other must be read with reference to the entire enactment in question.
- ii. Give full effect to both and then reduce the conflict.
- iii. Out of the two conflicting provisions choose wider and narrower scope of these two separately and,
- iv. From the wider provision, subtract the narrow and see the consequence. If the consequence is as reasonable as to harmonize both the provisions and it gives their full effect separately, no further inquiry is required. While doing such harmonization one thing must be kept in mind that the entire enactment is the product of the same author, i.e., the legislature and it is certainly supposed that the legislature while enacting the provisions of a statute was fully alert about the situation which entered to cover and therefore all provisions enacted require to be given their full effect in scope.

When one segment of an Act takes away what another gives, a non-obstante proviso must be utilized. Without a non-obstante proviso in such a case, a head on conflict will happen. It is the obligation of the court to avoid such circumstances and at whatever point it is conceivable to do as such, the clashing arrangements ought to be understood in such a way thus, to the point that they blend. The Court must attempt to discover the degree to which the governing body had planned to give one arrangement a superseding impact over another arrangement. In some English cases, it has been recommended that if two conflicting areas of an Act can't be accommodated, at that point the last segment must win, yet this is certainly not a broadly acknowledged govern of the principle of harmonious construction.

Q-2) What are the positives and the negatives of this principle? Are there other Rules of Interpretation which fill the lacuna generated by the principle?

The rule of harmonious construction is the thumb rule to the interpretation of any statute. An interpretation which makes the sanctioning a reliable entire ought to be the point of the Courts and a development which maintains a strategic distance from irregularity or repugnancy between the different segments or parts of the statute ought to be embraced. The Courts ought to maintain a strategic distance from "a head on conflict", in the expressions of the Apex Court, between the distinctive parts of an authorization and struggle between the different arrangements ought to be tried to be blended. The ordinary assumption ought to be consistency and it ought not be expected that what is given with one hand by the lawmaking body is looked to be taken away by the other. The administer of amicable development has been briefly clarified by the Supreme Court in this way, "When there are, in an institution two arrangements which can't be accommodated with each other, they ought to be interpreted to the point, that if conceivable, the impact ought to be given to both". A development which makes one segment of the authorization a dead letter ought to be kept away from since harmonization is not equal to destruction.

It is a settled rule that an interpretation which results in hardship, injustice, inconvenience, or anomaly should be avoided and that which supports the sense of justice should be adopted. The Court leans in favor of an interpretation which conforms to justice and fair play and prevents injustice.

When there are two provisions in a statute, which are in apparent conflict with each other, they should be interpreted such that effect can be given to both and that construction which renders either of them inoperative or useless should not be adopted except in the last resort.

Justification for this Rule is that Proponents of the plain significance decide assert that it keeps courts from taking sides in authoritative or political issues. They likewise bring up that conventional individuals and legal counselors don't have broad access to auxiliary sources. In probate law the manager is additionally supported on the grounds that the deceased benefactor is regularly not around to show what understanding of a will is fitting. In this manner, it is contended, extraneous confirmation ought not be permitted to change the words utilized by the deceased benefactor or their importance. It can accommodate consistency in elucidation. Feedback of this govern Opponents of the plain importance decide guarantee that the run lays on the wrong supposition that words have a settled significance. Truth be told, words are loose, driving judges to force their own partialities to decide the significance of a statute. Nonetheless, since little else is offered as an elective watchfulness limiting hypothesis, plain significance survives. This is the most seasoned of the standards of development yet utilized today, essentially because judges may not enact. As there is dependably the peril that a specific understanding might be what might as well be called making law, a few judges like to hold fast to the law's strict wording.

CONCLUSION

Statutes are drafted by the legislature and there is every possibility of situations of ambiguity, conflicts, anomalies, absurdities, hardships, repugnancy, redundancy etc. In such situations, the rules of interpretation of statutes possibly become the most important factor and the arrangements are translated to give greatest impact to them and to render equity to the current circumstance. The rule of agreeable development assumes a critical part in deciphering statutes and is utilized in plenitude of cases. It helps in rearranging entangled issues and makes conveying judgments considerably simpler. Thus, like the numerous tenets of elucidation of statutes, the significance of the administer of amicable development is additionally comprehended and felt by the legal. It was appropriately said by George Washington, 'The organization of equity is the firmest mainstay of the administration.' Thus, with regards to this idea, the legal ought to decipher the statutes legitimately and wisely apply the principles for elucidation of statues to render snappy equity to the subjects of the nation.

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