

Interpretation of Statutes

General principles

1.the primary rule-The first & most elementary rule of construction is that it is to be assumed that the words and phrases of technical legislation are used in their technical meaning, if they have acquired one, and otherwise in their ordinary meaning and second is that the phrases and sentences are to be construed according to the rules of grammar.

The rule of construction is “to intend the legislature to have meant what they have actually expressed” but the intention of Parliament must be deduced from the language used. It is well accepted that the beliefs and assumptions of those who were frame Acts of Parliament cannot make the law.

Where the language is plain & admits of but one meaning, the task of interpretation can hardly be said to arise.

An omission not to be inferred-Nothing is to be added to or taken from a statute unless there are adequate grounds to justify the inference that the legislature intended something, which is omitted to express.

Every word in statute to be given a meaning-A construction that would leave without effect any part of the language of a statute will normally be rejected.

The other main principles of interpretation

The mischief rule—In Hayden’s case it was held that the court has to observe following four rules,

- 1.What was the common-law before the making of the Act?
- 2.What was the mischief and defect forbade the common-law did not provide,
- 3.What remedy Parliament had resolved and appointed to cure the mischief,
- 4.The true reason of the remedy.

The golden rule-In the construction of a statute one should adhere to the ordinary meaning of the words used, and to the grammatical construction, unless that is at variance with the intention of the legislature, to be collected from the statutes itself, or leads to any manifests absurdity or repugnance, in which case the language may be varied or modified, so as to avoid such inconvenience.

Choice between two.- If the choice in between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation, should be avoided.

The statute is to be read as a whole -It was resolved in the case of Lincoln College case that every clause of the statute is to be construed with reference to the context and other clauses of the Act and, so as, as far as possible, to make a consistent enactment of the whole statute.

Intrinsic aids

Short title- nick name – neither can it extend nor can it delimit th clear meaning of particular provision.

Long Title – to give general description – previously not thought to be the part of the statute – now it is considered – no help when the meaning of the provisions are clear.

Preamble to an Act, -- key to know the mind of the legislature.

Marginal notes -it is always permissible to seek help from such provisions

Constitution- Marginal notes inserted by legislatures.

S.P. gupta AIR 1982 SC 149 – if the relevant in the boy are in conflict with the marginal notes, marginal note has to yield.

General heading,, Provisos, Interpretation clause, Conjunctive and disjunctive words, Gender, Punctuation marks, A reference to expressions used in another Act, Precedents, Explanation, Schedules, Use of illustrations in enactments, Meaning of the words, Include, Enabling and Disabling Statutes, Non-obstinate clause, Statue to be read as a whole, Subsection must become stewed as parts of an integral whole.

External aids to interpretation

Dictionary- Dictionaries are helpful to expound ordinary meaning of the word

Bond in CrPC, notice in Transfer of Property Act and other Acts, Hearing in CPC

Diverse meaning of the words given in Dictionaries- it is difficult to choose correct meaning- Motipur Zamindary Company case

Court should keep in the context in which the words are used while choosing the meaning from dictionary

Text books- May be referred to arrive at the true meaning of the statute but it is not necessary that the views expressed in the book are the views of the court

Meaning of various words in Hindu Code- Saptapadi, Religion , Hindu

Keshawanand Bharti – in view of opinions and counter opinions safest course is to decide the words as per context

Historical Background –Although the court is not at liberty to construe an Act of Parliament by the motives which influenced legislature, yet when the history of the law and legislation tells the court, and prior judgments tell this present court, what the object of the legislature was, the court is to see whether the terms of the section are such as fairly to carry out that object and not other.

Harihar Prasad v. Divakar AIR 1957 SC 121- ID Act- meaning of word retrenchment- Earlier statute referred for the meaning

Express news paper v. Union of India AIR 1958 SC 578 - in case of ambiguity may be considered

Legislative history –The parliamentary history of legislation is not permissible aid in construing a statute.

s.s Boda v. B.D.Sardana AIR 1997 SC3126 – use not permissible

Collective intention and not of individual so individual lecture can not be referred

K.P.Varghesev. income tax officer AIR 1981 SC 1922 – Lecture of finance minister can be used

R.S.Nayak v.A.R.Antulay AIR 1984 SC 684 report of commission for collecting information leading to an enactment is permissible aid

Government publications-1. The reports of commissions or committees, which preceded the legislation. 2.Other documents. Unless document is expressly referred to in the statute, it could be looked as for the purpose of construction.

International conventions –when legislation is not clear one can refer to the convention to resolve ambiguities or obscurities of language in the statute.

Practice-judicial, conveyancing, administrative and commercial. –The practice, which has been followed in a matter in the past, may influence the interpretation to be placed on legislation. The uniform opinion and practice of imminent conveyancers has always had great regards paid to it by all court of justice. Commercial usages may be relevant. When merchants have established a course of business, which is running smoothly, and well with

no inconvenience or injustice, it is not for the judges to put a spoke in the wheel and bring it to a halt.

Manikchand vState AIR 1958 SC 324Police report in 207 &208 CrPC means report u/s 173 as it is so referred in administrative practice.

An Act is to be regarded, as a whole-**It is an elementary rule that construction is to be made of all the parts together and not of one part only by itself.**

1. Individual words are not considered in isolation, but may have their meaning determined by other words in the section in which they occur.
2. Other individual sections in the same Act may control the meaning of a section

Construction by reference to earlier legislation-Previous legislation may be relevant to the integration of latter statutes in two ways,

- 1.The course which legislation on a particular point has followed upon provides an indication as to how the Act at present in force should be interpreted.
- 2.Light may be thrown on the meaning of in phase in a statute by reference to a Specific phrase in an earlier statute dealing with the same subject matter.

Construction by reference to latter legislation-In construing the provision of an earlier Act, the provisions of a latter Act to be taken into account except in limited class of cases. The rule applies although the Latter Act contains a provision that it is to be read as one with the earlier Act. The rule can be applied only when there were still doubts or ambiguities or readily capable of more than one interpretation.

Interpretation placed upon Acts of similar scope- If an Act of Parliament uses the same language, which was used in a former Act of Parliament referring to the same subject, and passed with same purpose, and for the same object, the safe and well-known rule of construction is to assume that the legislature when using well-known words upon which there have been well-known decisions used those words in the sense which the decisions have attached to them.

Statutory instruments-Great importance to be attached to the statutory instruments.

Extrinsic aid

Parliamentary history of the enactment
Legislative debates
Motives and testimony of legislators
Proceedings of legislative Council
Report of the select committee
Statement of objects and reasons not admissible in construing the statute
General social policy
Motive and object of legislation
Contemporaneous events and historical setting
Public policy
Previous legislation
Evidence of extrinsic aids
Use of dictionaries
Rules of grammar
Value of English decisions resembling the Indian statutes
Spatial meaning of words in a statute
Use of technical words
Use of legal terms
Terms of trade and commerce
Use of Specific words
Textbooks

Statutes in Pari material

Verbal or clerical errors

Subtraction and insertion of words

Provisions in the General Clauses Act

Welfare legislation

Beneficial legislation

Fiscal statutes

Recognized rules for interpreting entries in the legislative lists relating to the powers of taxation

Provisions of law limiting the period of limitation to be given strict grammatical meaning

Public statutes

Conflict between Specific natural rights and provision of general all spatial law

Wasting of the particular power in statutory body and the rule of interpretation

Local enactments
