

## **Topic: Doctrine Of Severability**

Name of the case: RMDC v. UOI, AIR 1957 SC 628

Bench: CJI Sudhi Ranjan Das, Justice T.L. Aiyar, Justice Venkatarama, Justice P. Bhuvneshwar, Justice S. K. Das, Justice P.B. Gajendragadkar

Ratio: The Supreme Court has explained the doctrine as follows;

“When a legislature whose authority subject to limitations aforesaid enacts a law which is wholly in excess of its powers, it is in tiredly void and must be completely ignored. But where the legislation falls in part within the area allotted to it and in part outside it, it is undoubtedly void as to the latter; but does it on account become necessarily void in its entirety? The answer to this question must depend on whether what is valid could be separated from what is invalid, and that is a question which has to be decided by court on a consideration of the provision of the act.”

Further, based on the said judgement, the Supreme Court in Motor General Traders Case 1984, laid down following provisions as regard to the doctrine of severability:

The intention of the legislature is the determining factor in determining whether the valid parts of the statute are separable from the invalid parts. The test is whether the legislature would have enacted the valid parts had it known the rest of the parts are invalid.

If the valid and invalid provisions are so inextricably mixed up that they cannot be separated from one another, invalidity of a part must result in the invalidity of the act in its entirety.

On the other hand, if there are some distinct and separate part after removing what is invalid, what survives can stand independently and is workable, the portion of which remains is in itself a complete code independent of the rest, then it will be upheld notwithstanding that the rest had become unenforceable.

Even when the valid provisions are distinct and separate from the invalid provisions, but if they form part of a single statue which is intended to operate as a whole, then invalidity of a part will result in the failure of the whole.

Likewise, though the valid and invalid parts of the statute are independent and may not form part of the scheme, but what is left after omitting the invalid person is so thin and truncated as to be in substance different from what it was when it emerged out of the legislature, then also it will be rejected in its entirety.

If after the invalid part is expunged from the statute, what remains cannot be enforced without making alteration and modifications therein, then the whole of it must be struck down as void.

The severability of the valid and invalid provisions of a statute does not depend on whether the provisions are in the same section or different sections; it is not the form, but the substance of the matter that is material, and that has to be ascertained on the examination of act as a whole.

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