



# MOHANLAL SUKHADIA UNIVERSITY, UDAIPUR

FACULTY OF LAW

## FIRST YEAR BACHELOR OF LAWS

(Effective from Session 2019-20)

PAPER – VII (PAPER CODE - 6007)

### (PAPER NAME – INTERPRETATION OF STATUTES & PRINCIPLES OF LEGISLATION)

Max. Marks: 100

Min. Marks: 36

**Note:** A. In order to ensure that students do not leave out important portions of the syllabus, examiners shall be free to repeat the questions set in the previous examination.

B. Leading cases prescribed under this paper may be read whenever they are relevant.

#### A. INTERPRETATION OF STATUTES

- 1) Meaning, Object and Nature of Interpretation:
- 2) **Basic principles of interpretation:** Intention of the Legislature: Statute should be read as a whole, Literal or grammatical interpretation Harmonious Construction, Golden and Mischief Rule - Utres magis quam valeat quam pereat.
- 3) **Aids to Interpretation-**
  - (I) **External** - Parliamentary - Legislative debates, Statement of objects and reasons Dictionary, Statutes in Peri-materia, Contemporanea expositio
  - (II) **Internal**- Title, Preamble, Heading, Marginal Notes, Proviso and Punctuation.
- 4) **Principle of Interpretation of Constitution and Penal and Fiscal Statues** - Delegatus non-protest delegate, Ejusdem Generies, Pith and Substance Rule. Expression unius est exclusion alterius. Non-obstante clause, Mandatory and Directory provision Noscitur a Sociis, Redendo do Singula Singulis Operation, Expiry and Repeal of Statutes.

#### B. PRINCIPLES OF LEGISLATION

- Essentials of Legislation
- Basis of Legislation
- Law and Public Opinion
- Principles of Utility
- Law and Morality

#### LEADING CASES FOR EXAMINATION:

1. Ramavtar Budhaiprasad v. Assistant Sales Tax Officer, AIR 1961 SC 1325
2. M/s. Motipur Zamindary Co. (Private) Ltd. v. State of Bihar, AIR 1962 SC 660
3. Heydon's case, (1584) 3 Co. Rep. 7
4. Bengal Immunity Co. v. State of Bihar, AIR 1955 SC 661
5. The Empress Mills, Nagpur v. The Municipal Committee, Wardha, AIR 1958 SC 341

#### CASES FOR READING:

1. R.M.D.C. v. Union of India, AIR 1957 SC 628
2. Corporation of Calcutta v. Liberty Cinema, AIR 1965 SC 661
3. All India Reporter Karamchari Sangh v. All India Reporters Ltd., AIR 1988 SC 1325
4. Bowers v. Gloucester Corporation, (1963) 1 Q.B.881
5. M/s. Hiralal Rattanlal v. State of U.P., (1973) 1 SCC 216

Omitted

Students are advised to read the following book on the subject from one of the following authors:

**SUGGESTED READING:**

1. P. B. Maxwell : On the Interpretation of Statutes
2. G.P. Singh: Interpretation of Statutes
3. Swarup J.: Interpretation of Statutes
4. Bindra : Interpretation of Statutes
5. Sarathi : Interpretation of Statutes
6. Bhattacharya T. : Interpretation of Statutes (English & Hindi)
7. A. V. Dicey : Lectures on the relation between law and public opinion in England during the nineteenth century
8. Lon L. Fuller : The Morality of Law
9. Jeremy Bentham : An Introduction to the Principles of Morals and Legislation

# Interpretation Of Statutes & Principles of Legislation

By Dr. Kalpesh

(कानूनी कानून विवेचन)

Constitution → part wise study.

Evidence (IPC) → Start preparing now.

Shell → mandatory

Meaning of Interpretation:

Read → Understand → Conclusion

↓  
Word by word

↓  
either it is clear or there is doubt

Civil      Criminal  
↓            ↓  
ADJ        ASJ  
(Additional District Judge)    (Additional Session Judge)

IPC made in 1860  
(Indian Penal Code)

Definition By Salmond: - Art of finding true.

- There are 2 ways of finding truth:
  - Natural
  - Ordinary

Basic Principles of Interpretation:

(विवाइक का आदर्श)

- Intention of legislature.
- Statutes should be read as whole.
- Literal & Grammatical interpretation.
- Harmonious construction.
- Golden & mischief rules.

Defim Definition By Maxwell:

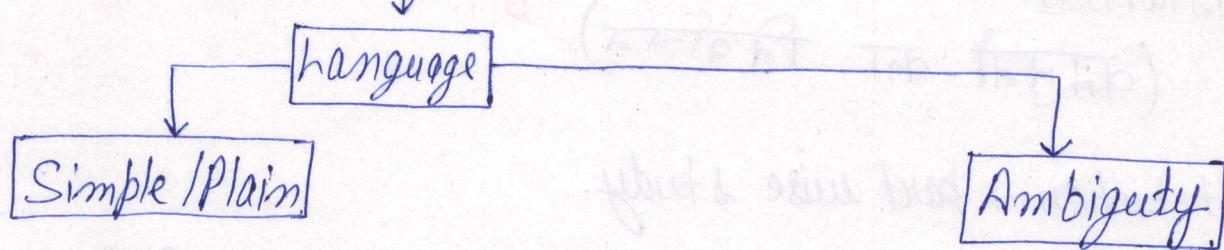
The procedure by court to determine the meaning of language, words, expression of statutes is called interpretation.

Legislature  
↓  
Law making

Executive  
↓  
implementation

Judiciary  
↓  
interpretation

Consti Need of Interpretation



Ragunandan Saran  
vs

Pyaralal  
1956 SC 413

Ramavtar

Assistance Sales tax officer  
(AIR 1961 SC 1325)

RS Nayak

VS  
AR  
(1984 SC)

Obj. → To determine the intention of legislature.

Kinds  
of Interpretation

Literal & Grammatical

Logical

Ragunandan Saran

VS

Pyaralal

- Ambiguity
- Inconsistency
- Incompleteness
- Defect (of object/sprit)

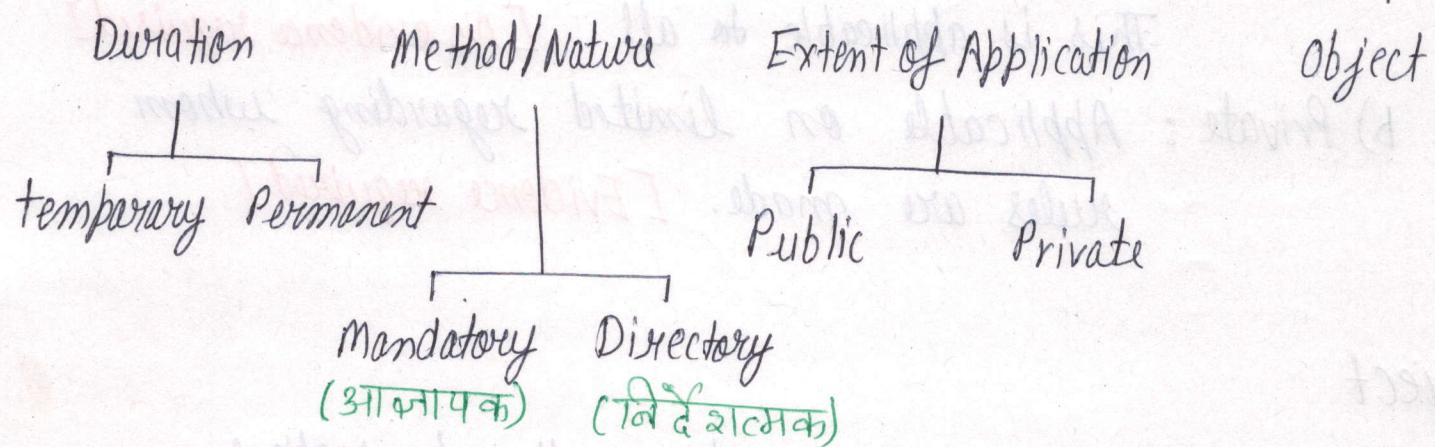
Ramavtar

VS

Assist. of Sales tax officer

## Classification of Statutes

②



### 1 Duration:

a) Temporary → If they fixed a day at what day/date it will be revoked. If they want to cont. this law then after being revoked it will be made again. e.g. Finance Law

b) Permanent → In this date is not ~~not~~ fixed that when it get revoked. It can be amended or repealed according to need.

### 2 Method/Nature :

a) Mandatory : "Shall" be done.  
Procedure is also given.

b) Directory → "May" be done. In this only guidance is given but no compulsion.

H V Kamat v/s Ahmed Esha AIR 1955, SC 233

"In this case it is said that "mandatory" shall be followed strictly. But directory statutes can be followed leniently."

3 Extent of Application → a) Public: It creates relation b/w society with govt. eg.: IPC.

This is applicable to all [No evidence required]

b) Private: Applicable on limited regarding whom rules are made. [Evidence required]

#### 4 Object

a) Codifying :- They are divided according to sections

eg.: IP, CrPC

- On any subject, any law is authorised manner in systematic way.

eg.: Hindu Succession Act, 1954

b) Consolidating:- This means making a law by collecting the similar types. So we can have similar types of offence & procedure etc. at one place eg:- CrPC, CPC

- Collective process

c) Declaratory :- The intention of making law is not it the way of its implementation. Then for that declaratory law is made so the intention of making the law is used & implied in some way.

• Retrospective effect → (Applied from the same day it is made)

• Eg → Income tax amn. 1855

[Sec 40, sub-clause 2]

- d) Remedial: eg:-
- Maternity benefit Act 1961
  - Domestic violence Act 2005
  - Labour Compensation Act 1955
  - To cure prior rule.

- e) Enabling Statute: Elaborate general law, convert unlawful Act into lawful.
- Land acquisition Act

- f) Disabling Statute: Convert lawful Act into unlawful.

- g) Taxing Statute: Main object = To generate revenue.

- If any fault in this Law, the benefit will be given to the tax payer.

- h) Explanatory Statute: Interpret & explain any law.  
(subsidiary statute)

- i) Amending Statute: To amend (Change/Add.)

Criminal Law Amendment at 1983

- j) Repealing Statute: - Replace

e.g.: Code of Criminal procedure 1898 → 1973

- k) Curative Statute: - If judicial remove any Act then parliament put unlawful law in schedule 9.

[248 Acts in schedule 9]

e.g. The Bihar land reform Act 1950

The Hyderabad Abolition of Jaghir regulation Act.

- l) Penal Statute: I.P.C

The Statute should be read as a whole

↓  
Why it was enacted

↓  
Read first as a whole

↓  
Act part of it taken together

[To know the intent of legisla]

Eg:- In religious book - शास्त्र पूरा मता है  
Some one read - शास्त्र पूरा पाता

- A statute is best interpreted when we know why it was enacted, it must read first as whole & then section by section, clause by clause, phrase by phrase & word by word.
- It is well settled principle based while interpreting statutes the interpretative function of court is to discover the true legislative intention.

The key to the opening of every law is the reason & spirit of the law.

### "Ex-Visceribus Actis"

- Means- A provision cannot be interpretation isolation.  
"Interpretation of statute should be done within 4 corners of the act, all parts of it taken together while constructing a provision, "a prov" cannot be interpretation in isolation.
- One provision must be interpretation in perspective of other.
- The construction of provision not to carry to ~~far~~ far.
- This rule should not be used when the meaning of provision is clear.

[Ramnarayan Vs UP State AIR 1957 SC 18]

[Alamgir Vs Bihar State AIR 1959 SC 431]

## "Casus Omissus"

[Deepika Arvind Kumar v/s Gujarat State]

AIR 2003 Gujrat 102

If any condition is omitted then court has right to modify any act points for better clarification

[Attar Singh v/s Indra Kumar]

AIR 1957 SC 773

~~Literatus~~ Literal & Grammatical Interpretation: (Rule)

- 1) The word of the laws are to be given their ordinary & natural meaning.
- 2) If such meaning is clear, simple or unambiguous, effect should be given to a provision of a statute whatever may be the consequences.
- 3) To know legislature intention.
- 4) The safest rule.

"Litera Legis"

(go by words or law)

Legislation said what is its mean & means what it said.

Advantages of this rule:- (Literal & Grammatical Interpretation)

- 1) It forced the Judge to carry out parliament intention.
- 2) It also provide certainty in law.
- 3) Safest rule.

Disadvantages of Literal & Grammatical Interpretation:

- 1) It is based on false assumption that a word will always have plain meaning.

Maqbul Hussain v/s State of Bombay

AIR 1953 SC 325

Art 20(2)

Sea Customs Act & Fera Act

Ramtar v/s Sales tax Officer  
(AIR 1961 SC 1325)

Motipur Zamidari Co. Pvt. Ltd.  
v/s  
Bihar State  
(AIR 1962 SC 660)

Ranjeet v/s State of Maharashtra  
(AIR 1965 SC 881)

sec 232 (5P)

- It is punishable to sell obscene material.
- Ranjeet was unaware of a book which was having obscene content.

(~~1270 A.D. to 1550~~) [beneficiary rule]

Mischief Rules: It was first came into existence

The aim of Mischief Rule is to find out defect in past law.

Heydon 1584 76 ER 637 → Past Law - defect = Current Law  
case

- This means to removing defect & we can use the law
- If we found the act then we will find the defect & make the rule for it.
- Remedy for defect & reason should be mentioned.

- What was the common law before making Act.
- What was the mischief & defect for which the common law did not provide
- What remedy the parliament has resolved and appoint to cure the disease of the common wealth.
- The true reason of remedy.

[Royal College of Nursing  
v/s  
Dept. of Health & Security]

Offence against a person Act, 1861

↓  
Abortion is an offence

[Ranjeet v/s Maharashtra State AIR 1965 SC 881]

New act come.

[Pyarulal v/s Mahender Ramchandra AIR 1974 SC 222]

The Abortion Act 197

[Alomgir v/s State of Bihar] Sec 49PA IPC [1860]  
1959

By sign of 2 doctors, the abortion can be done.

## (5)

### Concepts of Mischief & Rules:

- The main aim of the rule is to determine the mischief & the defect.
- In applying this rule the court need to know what part of law is not covered & need to be rectified by Parliament.
- It gives the judge more discretionary power than literal & grammatical rule.
- Undemocratic
- Prevent misuse of law.
- ~~With~~ It usually avoid unjust. ~~With~~
- wide scope: here judge has power to modify. → Disadvantages
- there is an uncertainty. Because court has power to modify.

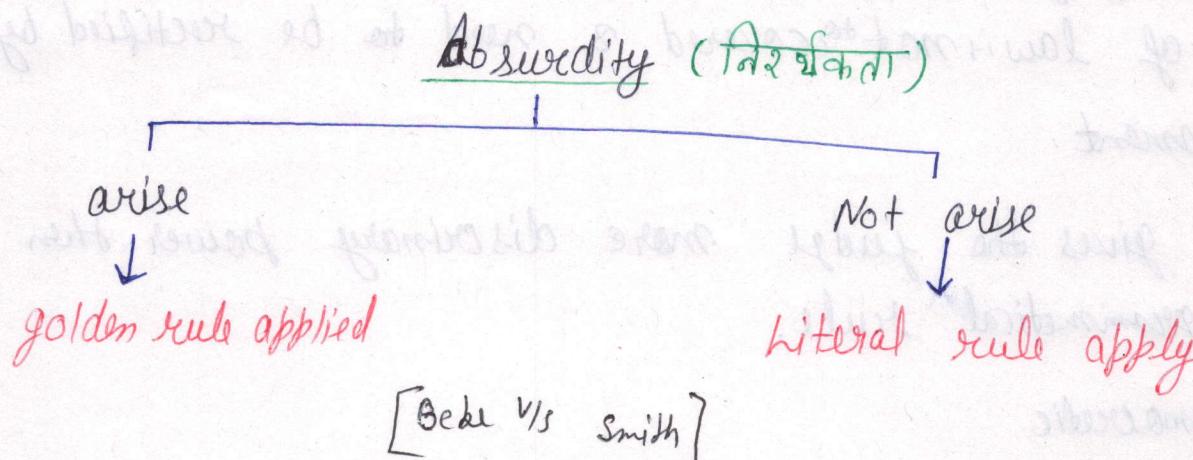
[ Mangal Singh V/S Election Tribunal ] → There should not be debt in Nagar Palika.  
[ AIR 1957 SC 871 ]

[ Kunwar V/S Delhi Prashasan ] → Delhi Muncipal Corporation.  
[ AIR 1965 SC 871 ] → To capture disowned animals.

[ NC Singhal V/S UOI ] → If there is two meaning of words  
[ AIR 1980 SC 1255 ] → One meaning is unjust & other one's  
meaning. Then we take justified meaning.

## Golden Rules:

- 1) First literal & grammatical interpretation
- 2) if 1. not applied; fix the error by modifying (by applying golden rule)



- 1) The golden rule is a modification of the principle of grammatical interpretation.
- 2) It says that ordinarily the court must find out the intention of the legislature from the words used in the statute by giving them their natural meaning.
- 3) But if this leads to absurdity, repugnance, inconvenience, hardship, injustice or evasion the court must modify the meaning to such an extent and no further as would prevent such a consequence. This rule solves all problems and is, therefore, known as the golden rule.

- respect the word of parliament.
- allow the judges to choose the sensible meaning.

[Lee v/s Kinsapp 1967]  
2 QB 442

vehicle.

- in case of accident, the driver shall stop at
- in this case the person stops for a moment & then he moves from that place
- his liability to provide the hospitality.

[State of Punjab v/s Kesar Joha Begum]  
AIR 1963 SC 1604

[State of MP v/s Azad Fin. Co.]  
AIR 1967 SC 276

[Karnail Singh v/s Mahinder Kaur]  
AIR 2003 Punjab Haryana 135

[Woravilly Jude Mills v/s  
Kanam & Co.]  
1963

- based on meaning of word market.  
- market means business and place of business

31 March 21

6

## Harmonious Construction

When two or more provisions of the same statute are rebracketed the court will try to construct the provision in a such manner if possible is to give effect to both by harmonising them with each other.

### Rules:

- two or more apparently conflicting provisions as dealing with separate situations
- By holding that one provision provides an exception of general rule.

[ MSM Sharma Vs Krishna Sinha ] → Art 19(3)  
AIR 1959 SC 395 ] → Art 19(A)

[ Shambavi Vs UOI AIR 1951 SC 458 ]

- Art 13(2)

- Art 368 - Sovereign power, can amend but no changes in basic act.

[ Sajjan Singh Vs State of Raj ]  
AIR 1965 SC 845

Along with Art 13(2) & Art 368

Const. part third & fundamental right

[ Ram Krishna Vs Vinod AIR 1954 SC 202 ]  
(Representation of people's Act 1351  
Sec 33(2) Sec 123(2))

[ Calcutta Gas Art Ldd Vs  
West Bengal State AIR 1962 SC 104 ]

[ Keshvanand Bharti Vs State of Kerala ]

AIR 1973 SC 1461

- Judicial review  
~~right of~~ statutes.

[ CIT Vs Hindustan Bulk Carriers ]  
AIR 2002 SC 705

Careers.

- should remove all controversy

[ Venkataraman Devaru Vs State of Mysore ]  
AIR 1958 SC 255

- Art 25(2)(b) vs Art 26(6)

One word has two meaning

- Intravious
- Ultravious

- It is better to recognise than unrecognised.
- It is better for things to have effect than to be made void.

[*Avtar Singh v/s State of Punjab*  
AIR 1965 SC 666]

- related to theft of electricity
- The punishment will be same as IPC.

[*Calcutta Nigam v/s Liberty Cinema*  
AIR 1965 SC 1107]

- related to the license fee.
- Instead of fee it will be considered tax.

[*Shrinath v/s Rajesh*  
AIR 1998 SC 1827]

- Only the only meaning of a word will be selected which helps in Justice.

[*Bhatia International v/s Trockling SA*  
S AIR 2002 SC 1432]

- Select the two meaning which fulfill the intention of legislature.

# Aids

## External

- ① Legislative debates
- ② Statement of objects & reason
- ③ Dictionary
- ④ Statutes in peri-materia
- ⑤ Contemporanea expositio

## Internal

- ① Title
- ② Preamble
- ③ Reading
- ④ Marginal Notes
- ⑤ Proviso
- ⑥ Punctuation

## Internal

### 1 Title

#### a) Short Title

- Never used in Interpretation.
- Just give a intro / identification.
- making a short form of a Long title.
- e.g. Cr.PC, IPC, Indian Evidence Act.
- General ~~clauses~~ Clause Act sec - 28 - the short form will be used as given in the Act only.
- Year will also be there with short title.

#### b) Long Title

- By reading this almost we get the intention of legislature.
- It will come after short title.
- CrPC 1973 → Criminal Procedure The Code of Criminal Procedure 1973
- Can be used while interpretation.

[Kedarnath Vs State of WB  
AIR 1953 SC 404]

West Bengal Criminal Law Amendment Act 1949

sec-4 says state govt will choose which case goes to special court or which goes in general court.

[Ashwini Kumar Vs Arvind Bose  
AIR 1952 SC 369]

## 2) Preamble - Spirit and goal of Act

10 March 2021

- Object
- necessity
- part of Act

"Preamble is the key to open the mind of Legislature"

clear statute - no use of preamble unclear/ambiguity

unclear/ambiguity - use of preamble (more than one meaning)

- Do not override the clear meaning of statute.

[Kerala Edu. bill 1957]

~~- You can use preamble~~

[Shantakar Sahay v/s Dindayal AIR 1999 SC 409]

[State of W.B. v/s Anwar Ali AIR 1952 SC 75]

[Kedarnath v/s State of WB AIR 1953 SC 404]

[AC Sharma v/s Delhi Administration AIR 1973 SC 913]

[National Mill Labour Union v/s NTC AIR 1996 SC 710]

## 3) Heading of Sections:

- Those heading have been treated by court as preamble to those sections or set of sections.
- Heading of section, sub-section, articles
- Heading of group of section, sub-section & article.
- When to use heading :

- doubt regarding to the meaning of word if more than one conclusion are possible.
- more than one conclusion can be drawn.

When language is  
clear, no use of  
heading

[Bhikha v/s Charan Singh AIR 1959 SC 960]

[Toli v/s Bridgeman 1994(2) QB 354]

[M/s Break India Ltd. v/s UOI AIR 1990 SC 689]

- Heading cannot be used when the language is and meaning is clear and plain meaning.
- Heading can neither cut out or extent the plain meaning.
- Heading of one section can not interpret other section.

#### 4) Marginal Notes

- no use in interpretation
- personal understanding
- not decided by legislature
- no direction of legislature
- written by draft man.
- Gist of a section/provision.
- not a part of Act/law.

~~except~~ exception → Legislature himself describe/written marginal notes.

↳ Use in interpretation.

↳ Constitution

Indian Evidence Act

[Bengal Immunity Co v/s Bihar Rajya AIR 1955 SC 661]

Const 286 →

[K P Wargi v/s Indian Income Tax officer AIR 1981 SC 1922]

- Marginal notes are very rarely used.

## 5) Proviso

- Create exception
- Limit the extent of section/statute
- after the completion of main provision or section
- Condition
- If two proviso in section if later is in contradiction of former then later proviso prevail.

[Vishesh Kumar v/s Shanti Prashad]  
AIR 1980 SC 892]

[TM Kaniyan v/s Income Tax Officer Puducherry]  
AIR (1968) SC 637]

Constitution art 240 (1)

[S. Sundaram v/s Ara Patabhiraman AIR (1985) 582]

## 6) Punctuation

(,) (i) (1) (?) (!) (-> )

[AK Gopalan v/s Madras State AIR 1950 SC 27]

Shambhu Nath Sarkar

V/S

State of West Bengal

AIR (1973) SC 1425

Mohd. Sabir V/S State of Maharashtra

AIR (1979) SC 584

M K Salbekar V/S Sunil Kumar Shyam  
Sundar Chaudary

AIR (1988) SC 1841

## Eternal Aid

1) Legislative debit:

Legislature enacting law

↓  
Self or agents (commission, inquiry committee,  
stamp group)

Such Committee submit its reports

↓  
Draft is prepared (called bill)

↓  
Legislative procedure is initiated from the time of bill introduced

↓  
Bill is laid on the table of parliament in either of Houses

↓  
Bill pass through 3 stages

↓  
Reading Reading Reading

↓  
When Bill is pass by both the house

↓  
Sent to president for his assent.

↓  
Become law after the assent of president.

[Pepper Vs Hart]

• संसद की किसी सामग्री का उत्तमाल भर्ज को संवेदन

Traditional view: ↓  
• Traditional views

[Travancore Cockin Rajya Vs Bombay Co. Ltd. AIR 1952 SC 386]  
• संसद में कोई वास्तविक विवाद नहीं था।

[Express News Paper Pvt. Ltd. Vs UOI AIR 1958 SC 578]

Modern View:

[A.V.M. Narshimha Rao v/s AP State]  
AIR 1970 SC 422

• Article 16 (3) → used & debatable while interpretation.

[Builders Association of India v/s UOI AIR 1982 SC 1737]

<sup>Imp</sup> [Indra Sahani v/s UOI AIR 1992 SC 1(285) 1]

Dictionary: Object, purpose & context These 3 elements we have to consider while interpretation.

[Income Tax Commission v/s Taj Mahal AIR 1971 SC 550]

[New Delhi Municipal Council v/s Sohal Sahni Lal Sehdev]  
2000 (2) SC 494

(1) Where the meaning of word clear & simple.

[Mangal Singh v/s Election Tribunal AIR 1957 SC 871]

[Madhav Rao Shinde v/s UOI 1971 (3) SC 9]

(2) Where the term define by statute itself

[S. Gopal Reddy v/s AP State 1996 (4) SC 596]

(3) Different expectations of the context, object and general prevailing.

[Alamgir v/s Bihar State AIR 1956 SC 436]

<sup>★ Leading</sup> [Ramavatar v/s Assistance Sales Tax Officer AIR 1961 SC 1325]

## Statutes in Peri-material [सार्व विषयवस्तु कानून]

Peri → Same [सार्व - समान]

Materia → Subject matter

Statutes → in Peri Materia → Would refer to the Statutes on same subject matter.

[इनकी विषय वस्तु कानून]

(1) Different Acts having same subject matter

(2) Earlier Statutes

[Madras State v/s A.V. Aiyar AIR 1958 SC 61]

[Assam State v/s P. Bodua AIR 1969 SC 831]

[M.P. State v/s Swarupchand AIR 1997 SC 301]

(3) When two statutes are not in peri-materia

(4) Subsequent Statutes

3 Exceptions :

- Amendment in earlier statutes
- Ambiguity & confusion in earlier statutes
- Diverse meaning

Contemporaneus - Same time or period  
ममकालीन / उसी समय

Exposito - Explanation प्राप्ति

"Contemporanea expositio est fortissima in lege."

कांटेपोरेनिया या समाप्तिजारी ओ वास्तविकता इन लोगो

The maxim means that contemporaneous exposition is the best and strongest in the law. The best exposition of a statute or any other document is that which it has received from contemporary authority.

Morgan v/s Crashe 1871 LR 5

- House of Lords case.

Rajaram v/s State of Bihar AIR 1964 SC 828

- Indian Evidence Act 1872's Interpretation

Ms. Diepack System Pvt Ltd. v/s UOI AIR 1988 SC 782

- This principle will be used for old statutes not for modern.

~~Exst~~ Sr. Electric Inspector v/s Laxmi Narayan. AIR 1962 SC 189

## Unit - 4

6 April 2021

Delegatus non-potest delegare

[डेलेटस नान पॉटेस्ट डेलिगेयर]

The meaning of this principle is - No delegated powers can be further delegated.

One whom power is delegated can not himself further delegate powers.

~~This maxim first applied in below case (in India)~~

AK Roy v/s State of Punjab 1986 (4) SC 328

Exceptions:

- The instrument provides for itself.
- The delegation is in regular course of business.
- Deligation is necessary otherwise the work can not be performed.
- The consent of beneficiary of the trust is available for such delegation.

Related  
ICA Sec 190  
Principles & relationship of agent.

[Alinghum v/s Minister of Agriculture & Fisheries <sup>AIR 1948</sup>  
All ER 780]

Also applies on legislature to delegate the powers to make rules or law.

Imp Keshvanand Bharti v/s Kerala State 1973 SC 225

V. Imp Queen v/s Burrah 1878 ILR 3 Cal 64  
Handmark decisions

V. Imp Re Delhi law act, AIR 1951 SC 332

- Parliament can't delegate its all power.
- legislature can't delegate its essential functions.