

## **Courts and Intention of Legislature Enacting The Statute**

**\*G.V.Akshaya**

*(BBA.LLB(Hons), III Year/Saveetha School Of Law/Saveetha University/India)*

*Corresponding Author: \*G.V.Akshaya*

---

**ABSTRACT:** *Interpretation means the art of finding out the exact meaning and true sense of an enactment passed by the legislature by looking into the words of the enactment and find out their natural and ordinary meaning. It is the process of determining the true meaning of words used in the statute. The courts follow certain procedure and principles for construction and these are principles are called 'Rules of Interpretation'. The main object of this paper is to discuss about how the statutes are interpreted by courts by relying on the intention of the legislature.*

**Keywords:** *Construction, Enactment, Interpretation, Legislature, Statutes.*

Date of Submission: 16-09-2017

Date of acceptance: 27-09-2017

---

### **I. INTRODUCTION**

We all live in a world where we have duties and obligations towards the state and society. The order is maintained in society because of the presence of law. The Law and order is maintained for just and stable existence of mankind as is evident that the human tendency needs some kind of sanctions to regulate the behaviour and it is mainly done by the actual presence of law. Law is some kind of element which actually binds all the members in the community together for recognizing the values and standards.

The ancient law derived its actual presence in society from sources like Customs, Precedents and Legislations. But, the authentic and most reliable source is 'statutes' or which is known as Enacted laws. The modern Acts are made by legislature (parliament) for the needs of society. These are used as the basic and primary source by a judicial authority for carrying out their day to day operation. Every judicial and administrative body are working according to the enacted laws and statutes.

With the source of law and with the change of time, the problem is that the society changes and this finally changes the mindset leading for a court to interpret. The enacted laws, specially the modern rules and acts are mainly drafted by the legal experts and scholars and the language used will leave a very little room for interpretation. Some people find difficulty in interpreting the words as their meanings are ambiguous and certain expressions are inconsistent. One of the reasons is that there is no coordination between the person who involve in drafting the law and the person who applies it in working. In order to look after this certain rules of Interpretation or construction have been formulated and one of the rules is called the Intention of Legislature.

The court will involve in interpretation or construction when it cannot proceed through the ordinary rules of interpretation and it will look into the intention of legislature and try to derive the words from statute.

In certain cases, the courts have gone beyond the words of the statute and they have interpreted various statutory provisions in a manner as to be morally sound. The extent to which the legislature and its intent can shape the understanding and implementation of a statute is indeterminate. The value of time varies with time as well as across jurisprudences. In India, it becomes necessary for the court to evaluate the role of legislature and its intent in statutory interpretation.

### **II. Interpretation Of Statute**

The means of communication are the words spoken or written. When there is a possibility of giving one and only meaning there will not be any problem arising. But, when there are possible chances of two meanings, a problem will arise where the court will look into the real intention of legislature. There will be a problem arising when a provision in any statute is found to convey more than one meaning. So the Judges will interpret the meaning of a word. The legislature, after enacting these statutes becomes *functus officio*. Legislature enacts and the judges interpret the words and meaning.

The judges cannot rely on something which they don't understand in the provision of an enactment. They are under an obligation to interpret and find out the exact meaning. They cannot refuse or refer back the matter to the legislature for interpretation. This exact situation led to the birth of principles of Interpretation to find out the exact and real intention of the legislature.

Those with least ambiguities, inconsistencies or lacunae are considered to be good enactment. The actual purpose of the interpretation of statutes is to find out the precise meaning of a word, which is achieved by using certain aids or methods. The aids of interpretation are divided into two categories called Internal and External Aids.

1.1 The internal aids are found within the statute:-

1. Long title
2. Preamble
3. Chapter Headings
4. Marginal Notes to every section of statute
5. Punctuations
6. Illustrations given below the sections
7. Definitions
8. Provisos
9. Explanation
10. Saving Clauses and non-Obstante clauses.

1.2 The External aids for Interpretation are those which are not present in the statute but it can be found somewhere else:-

1. Historical background
2. Statement of Objects and reasons
3. The original bill as drafted and introduced
4. Debates in the legislature
5. State of things at the time a particular legislation was enacted
6. Judicial construction
7. Legal dictionaries
8. Common sense

The court applies this process of interpretation to find out the true meaning of the ambiguous word or any phrase contained in the legislation. In the process the judge will try to ascertain the exact meaning the parliament had in its mind. In some cases there will be different interpretations by different judges. The meaning taken by one judge in interpreting the statute of the same word will be different from the second judge. More precaution will have to be taken while interpreting the vague and undefined word of the statute. The judge during interpretation of statute should not pursue his own thoughts and ideologies to interpret a statute and he should interpret only according to the statute and its objectives.

The meaning of the word Interpretation means how a judge will look into a particular word with matter or exact principle. SALMOND has defined the term interpretation in Jurisprudence as, "the process by which the court seeks to ascertain the meaning of the Legislature through the medium of authoritative forms in which it is expressed".

Thus it has been said that, Interpretation is an art of finding the true sense which their author has intended to convey, and to enable others to derive the same idea which he has intended to convey. Clearing any ambiguity is construction and it is synonymous to the word Interpretation.

### **III. COURTS AND INTENTION OF LEGISLATURE**

The legislative intent is more than the purpose of legislature and the implication of words while framing it. The purpose behind framing any statute is mainly for the public benefit.<sup>1</sup> The legislature is presumed to have certain meaning of the words of any particular statute. Any statute framed should be in accordance with such meaning. During any interpretation of any statute an advocate or a judge should always go by the rules of interpretation and all these rules are used to gather the facts and they are processed to clear the ambiguity and vagueness of the statute and will give a clear meaning to the word. The process of interpretation is done going

---

<sup>1</sup> United Bank of India, Culcutta v. Abhijit Tea Co. Pvt. Ltd., AIR 2000 SC 2957

by the words of these statutes which is open to more than one interpretation. In this case, the court will have to choose the intention of the legislature which is used in enacting a statute representing the true intention of the legislature.<sup>2</sup> So in this case, the court will look into the legal meaning or true meaning of all the statutory provisions.

### **3.1 The role a Judiciary plays:-**

1. When words are imperfect and they are ambiguous and they keep changing meaning over time which does not appear to be directly addressing a particular issue and which appears to have a drafting error.<sup>3</sup>
2. Some situations are inevitable and new technologies make existing laws difficult.
3. Some uncertainties can be added to the statute in course of enactment.
4. When any statute is clear and unambiguous, the courts stated that, the inquiry into legislative intents ends at that particular point. The intention of the legislature is to be construed when there is a possibility of two interpretations differently arising and this has to be essentially constructed of two aspects, one is the concept of meaning i.e what the words mean and another is the words that state the concept of purpose and object or the reason and spirit coming through the statute.
5. The process of construction combines both literal and logical. The legislative intention is the true or legal meaning of an enactment which is derived by considering the meaning of words which is used in the enactment for a purpose or object to which the enactment is directed.
6. The courts will have to keep in mind while reading any statute, by certain legislative intent. They are the text of any statute which has proposed to the legislature. These proposed amendments to the statute can be accepted or rejected with reasons. They include the record of court hearings on a particular topic. Parliamentary debates and speeches are made prior to the bill on vote. They maintain the legislative records or journals. The General Clauses Act, 1897 can be used to understand the relevant definitions in the statute.<sup>4</sup>
7. Prior to the formation of statute, the case laws demonstrates the problems or issues which the legislature was dealing with tackling the problem. Legislative intent is the reason for passing the law.
8. Other relevant statutes which indicate the limits of the statute in question; such as previous statutes on the same matter.

The intention of legislature is a shorthand reference to the words meaning which is used by the Legislature and determined with guidance accepted principles of Interpretation. This interpretation is done by judges when the legislation was drafted because a statute is an edict of the Legislature. It is considered to be a reason that interpretation of a statute is done according to the intention of those persons who make it. It is the duty of the judicature to act upon the true intention of legislature –the mens or sentential legis. The main object of interpreting the statute is to ascertain the intention in which a legislature is made.<sup>5</sup> The primary function of all the appellate courts is the interpretation of statutes and it is also conventional for courts to make it use of the rules in the actual course of interpretation. Some of the rules in interpretation of law are considered to be very ancient and others are actually recent. Some statutes are applicable only to one field such as criminal law or constitutional law.<sup>6</sup>

2.2 Certain principles of interpretation are formulated by the Superior Courts to find out the intention of the legislature.

#### **1. Literal construction:**

The first and foremost construction is that of a literal construction. The courts are bound by the legislature and once any legislature has expressed its intention in clear words they are binding. If any provision is unambiguous, the legislative intent is clear and the other rules of construction are not clear they need not be called for any aid. They will be aided only when the legislative intention is not clear. If the words are clear in a legislature they should be applied even though their intention may be different or the result is harsh or undesirable.

#### **2. No external aid where words plain and unambiguous:**

The words of a statute are unambiguous and precise, the intention of every legislature or statute is gathered from the language itself and no need of construction of any words. Where a statute is not exhaustive or it is ambiguous or uncertain the external aid may be looked into for the purpose of ascertaining the object for framing any statute in the legislature.

---

<sup>2</sup> Venkataswami Naidu, R v. Narasarn Naraindas, AIR 1966 SC 361

<sup>3</sup> Legislative Intent in Interpretation of Statutes, at [https://en.wikipedia.org/wiki/Legislative\\_intent](https://en.wikipedia.org/wiki/Legislative_intent)

<sup>4</sup> Guru Prasanna Singh, Principles of Statutory Interpretation, Ed., 12(2010)

<sup>5</sup> Statutory Interpretation: General Principles and Recent Trends (2008)

<sup>6</sup> Vishnu Pratap Sugar Works (Pvt) Ltd. V. Chief Inspector of Stamp, AIR 1968 SC 102

**3. Mischief rule (Heydon's case):**

Whenever there arises any question as to determine any interpretation in an enactment, the court will have to ascertain the intention of making them and they must be gathered from the words used in the statute. The decision should not rest on a literal interpretation. Literal construction should have a prima facie preference. The rule gives more discretion than a literal or a golden rule of interpretation as it allows to effectively decide on parliament's intent.

**4. Words coupled together to take colour from each other:**

This rule states that, when two or more words which have analogous meaning are coupled together, they are to be understood in proper sense and not in a wrong way. This rule will not apply in a case where the legislature has used more or wider words to widen the scope of any provision.

**5. The golden rule:**

A hypothetical consideration should not have much weight in interpreting a statute. If the language permits, it is open to the court to give the statute any meaning which promotes the intent of legislation. The court will always have the power to depart from the construction if there is a strict adherence to the construction which will defeat the object of the legislature.

**6. Absurdity or hardship:**

The court will have no power to give the language of a statute a meaning which is wider than the literal one, until there is any reason compelling to give another meaning. If an interpretation of a statute has or leads to any absurdity or hardship then the construction may be put which modifies the meaning of the words and the sentence also. If the language which is to be constructed is plain, the legislature should step in and remove the absurdity. The considerations of the hardship should be ignored.

**7. Liberal construction:**

It is necessary and legitimate to adopt the rule of liberal construction as to give a reason and meaning to all parts present in a statute and to make it effective and operative. The narrower and wider sense of a term is adopted and it depends on the provisions of the statute in which the term occurs depending on the various facts and circumstances of the case. If any words used in the provision are capable of only one construction, the doctrine of liberal construction cannot be of any help. The enactments related to procedures should be construed liberally in a manner as to render the enforcement of rights effective. This rule will apply to the interpretation of constitutional and statutory provision.

**8. Harmonious construction:**

The statute should be construed and the construction has to be harmonious. The provisions which are in conflict with each other cannot stand together. They should be interpreted in a harmonious way and the effect should be given to both hand that a construction renders either of them inoperative. It is also the duty of the courts to avoid conflicts between the provisions and whenever it is possible the rule of harmonious construction applies and to different cognate acts such as the court fees or the civil procedure code. It can be unreasonable and illegitimate for a court to limit its scope arbitrarily or solely for the purpose of establishing harmony between them.

**IV. CONCLUSION**

The usage of the intention of a legislature by every court should be justified by a proper reason and it should not be left open to statutes which are present. Errors are committed and should be rectified as soon as possible. Every court is assigned a task of statutory interpretation and that should always be done with a proper care and caution which is taking care of all the rules and regulations regarding the construction. The court can always interpret legislation in its own way as to what considers for them to be right and they are taken care for finding out the intention of legislature in enacting the statute.

There are different statutes where every intention can be looked upon on the case of 'Taxation' and 'Penal code' statutes which is never looked by the court. The interpretation of all the statutes is different from ordinary ones as they have clear provisions as to what impose tax or liability on certain subjects. People will suffer if the interpretation goes in a wrong way. Both statutes should be clear for interpretation and if it is ambiguous or unclear, there will be no interpretation. In these statutes, the court will not give effect to all the word. They will only interpret if the word is clear and in the case of any ambiguity the court will look into enacting provisions of the statute. Here the court will apply only the Literal Interpretation by taking a popular or an ordinary meaning and the court will not apply any canon of construction for Interpretation of statute. Regarding law, every word has a meaning and the interpretation will become the scope and beyond the reach of objectives and reasons for which the statute was enacted in the legislature. Hence the court should understand this construction on for determining any statute or constitutional provision.

**BIBLIOGRAPHY**

**Books:**

- [1]. Justice G.P. Singh, Principles of Statutory Interpretation (14th edn, Lexis Nexis Publications 2016).
- [2]. Dr. M.P. Tandon, Interpretation of Statutes & Legislation (12th edn, Allahabad Law Agency 2016).
- [3]. Quintin Johnstone. "An evaluation of the Rules of Statutory Interpretation", 2 YLJ 1-2 (1954)

**Website references:**

- [4]. Legislative Intent in Interpretation of Statutes, available at: [https](https://www.iosrjournals.org) (Visited on September 12, 2017).
- [5]. Judicial Interpretation, available at: [https://en.wikipedia.org/wiki/Judicial\\_interpretation](https://en.wikipedia.org/wiki/Judicial_interpretation) (Visited on August 27, 2017).
- [6]. Statutory Interpretation, available at: <http://www.ijtr.nic.in/articles/art21.pdf> (Visited on September 5, 2017).

**Case laws:**

- [7]. Venkatachalam V. Dy. Transport Commissioner, AIR 1977 SCC 842, page 853, 854
- [8]. R. v. Secretary of State for the Environment *ex parte* Spath Holme, [2001] 1 ALL ER 195

G.V.Akshaya. "Courts and Intention of Legislature Enacting The Statute." IOSR Journal Of Humanities And Social Science (IOSR-JHSS) , vol. 22, no. 9, 2017, pp. 96–100.

IOSR Journal Of Humanities And Social Science (IOSR-JHSS) is UGC approved Journal with Sl. No. 5070, Journal no. 49323.