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*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshargarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

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## **Avinash Kumar**



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **“INTERNAL AND EXTERNAL AIDS OF INTERPRETATION OF STATUTES IN BRIEF”**

AUTHORED BY - ADWAIT DWIVEDI

ROLL NO. 18

LL.M (1st year 2nd Semester)

PROGRESSIVE EDUCATION SOCIETY'S MODERN LAW COLLEGE, PUNE

SAVITRIBAI PHULE PUNE UNIVERSITY, PUNE

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## **ABSTRACT**

Understanding and applying laws can be challenging, especially when the wording is unclear or open to different interpretations. This article looks at how internal and external aids help in interpreting laws. Internal aids are clues within the law itself, like its language, structure, and context. External aids include sources outside the law, such as previous court decisions, legislative history, and expert opinions. The article explores how these tools help legal professionals clarify the meaning of laws and make fair decisions. By using these aids, lawyers and judges can better understand the intent behind laws and apply them more effectively.

Keywords: Statutory interpretation, Internal aids, External aids, Law language, Context, Precedents, Legislative history, Legal decisions, Fair application, Legal clarity

## **INTRODUCTION**

When a word employed in a statutory provision bears more than one meaning, the court has to determine which of them best manifests the legislative intent. In the process of ascertaining correct meaning of an ambiguous word, the courts may seek necessary help from the various parts of the same statute or may refer to some other statute or document or the facts leading to enactment. Such assistance is known as "aid to construction". For the purpose of construction or interpretation, the court has to take recourse to various internal and external aids. Internal aids mean those materials which are available in the statute itself, though they may not be part of enactment. These internal aids

include, long title, preamble, headings, marginal notes, illustrations, punctuation, proviso, schedule, transitory provisions, etc. When internal aids are not adequate, court has to take recourse to External aids. External Aids may be parliamentary material, historical background, reports of a committee or a commission, official statement, dictionary meanings, foreign decisions, etc. the dictionary meaning of the term aid is help or assistance. Therefore the expression aid to construction would mean the help or assistance sought by the courts for construction of an ambiguous word. The prime object of interpretation is to draw true intention of Legislature from the words itself employed in the language of a provision. But where the words suffer from ambiguity, it is necessary to remove the same by construing it, so that legislative intent can be given effect to. When a word used by the Legislature in a statutory provision bears more than one meaning, it is to be determined which of those meanings is true one in the context. For arriving at the true sense of such ambiguous word, the courts may examine each meaning given out by that word and finally adopt that meaning which is in tune with the legislative intent. In this process, for ascertaining correct meaning of an ambiguous word, the courts may seek necessary help from the text of the same statute or may refer to some other statute or document or the facts leading to enactment. Such assistance is known as "aid to construction".

### **KINDS OF AIDS IN THE INTERPRETATION**

The aid or assistance for construing a statutory provision can be taken broadly from two sources. Firstly, from the same statute book and secondly, from any outside source like other statutes or documents etc. In the former case, for the purpose of ascertaining the true sense of an ambiguous word, the courts seek assistance from various parts of the same statute book such as its title, preamble, heading, definition clause, proviso, explanation etc. The courts do not look for anything outside that enactment and confine themselves to the same statute book, the provision of which is being construed. Since the assistance is sought internally i.e., from within four corners of the same statute, such aids are known as "Internal Aids to Construction". However, if the ambiguity is not resolved by resorting to internal aids, the courts may, in their quest to interpret a provision, step out of the statute book and consult other laws on the subject or other relevant documents to throw light on the correct meaning of an ambiguous word. Since this assistance is sought from outside sources, it is called "External Aids to Construction".

In short, there are two kinds of aids, viz., (a) internal aids in which various parts of the same statute book are utilized such as its title, preamble, heading, definition clause, proviso, explanation etc. and (b) external aids which are taken from any outside source like other statutes

or documents etc.

### **When aids to construction can be legitimately invoked**

The aids to construction can be pressed into service when the words of a provision are ambiguous giving rise to alternative constructions and when plain, ordinary and natural meaning is assigned to such words, the result is unintended or absurd or undesirably against the policy or object of the statute or it fails to effectuate the legislative intent.

In *State of Maharashtra v. Marwanjee F. Desai*,<sup>1</sup> the Supreme Court held that true intent of the Legislature shall have to be gathered and deciphered in its proper spirit having due regard to the language used therein. Statement of objects and reasons is undoubtedly an aid to construction but that by itself cannot be termed to be and by itself cannot be interpreted. It is a useful guide but the interpretations and the intent shall have to be gathered from the entirety of the statute and when the language of the sections providing an appeal to a forum is clear and categorical, no external aid is permissible in interpretation of the same.

## **INTRINSIC OR INTERNAL AID**

### **1) CONTEXT**

In interpreting a legislation which is ambiguous, the context has to be taken into account to deal with dubiousness, Blackstone has in his *Commentary on interpretation*, observed: if words happen to be still dubious, we may establish their meaning from the context with which happen it may be are of singular use to compare a word, or a sentence, whenever they ambiguous, equivocal, or intricate."

A carefully drafted statute demands the consideration of every word of the contemplated enactment in its relation to the accompanying language, and the words and phrases occurring in the statute are not to be detached dissociated from the context.<sup>2</sup> The context, as observed by Lord Simonds in *Attorney General v. Prince Augustus*,<sup>3</sup> includes not only other enacting provisions of the same statute, but its preamble, the existing state of the law, other statutes in *pari materia* and the mischief which the statute, discerned from those and other legitimate means, was intended to remedy.

### **2) TITLE**

Title is an important part of the statute. It is given on the top of the statute book. Earlier, title was

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<sup>1</sup> (2002) 2 SCC 318: AIR 2002 SC 456.

<sup>2</sup> INTERPRETATION OF STATUES BY DR M.P. TANDON.

<sup>3</sup> (1957) 1 ALL E.R. 49,53.

not considered to be a part of enactment the as such it was not utilized for the purposes of interpretation, but now the situation has changed. JUSTICE S.R. DAS observed, that it is now well settled law that the title of a statute is an important part of the Act and may be referred to for the purpose of ascertaining its general scope and of throwing light on its construction, although it cannot override the clear meaning of an enactment.

Like other books or documents, the title of a statute gives a fairly good idea as to what subject matter the statute deals with or what is contained in the enactment. Yet, the true nature of law is to be determined by its substance and not alone by the name or title given to it. In construing a statute, guidance may be taken from its title but it can neither be used to narrow down or restrict the plain meaning nor can be granted overriding effect on clear meaning of an enactment.

There are two kinds of titles in most of the statutes, viz., "Short title" and "Long title".

#### SHORT TITLE:

Short title may be considered to be a nick name. According to LORD THERING, every Act of Parliament should have the short title ending with the year which it has been passed For example, The Code of Criminal Procedure, 1973 and "The Code of Civil Procedure, 1908" are short titles of these Acts.

The short title is always given on the top of the statute book. An Act or Regulation may be cited by reference to its short title. The object of short title is identification and not description. Like from the short title act of "The Consumer Protection Act, 1986", one can identify that this is an Act relating to protection of consumer rights. Similarly, "Indian Contract Act, 1872" reveals that this is an Indian Act relating to contract.

#### LONG TITLE:

The long title of an Act is mentioned in the statute book in small letters below its short title and before its preamble. The long title generally starts with the words "An Act.....". For example, the long title of the Code of Criminal Procedure, 1973 is "An Act to consolidate and amend the law relating to criminal procedure". The Supreme Court Advocates (Practice in High Courts) Act, 1951 bears long title "An Act to authorize Advocates of Supreme Court to practice as of right in any High Court". The long title of Consumer Protection Act, 1986 is "An Act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of Consumer Councils and other authorities for the settlement of consumer disputes and for matters connected therewith". The long title of the Code of Civil Procedure, 1908 is "An Act to consolidate and amend law relating to the procedure of courts of civil judicature".

### 3) PREAMBLE

Preamble is a statement given in the statutes in the beginning. It is a part of the Act and sets out its scope, object and purpose. It provides a summary of the statute. It reflects the gist of law. It is an expression of intention of Legislature in bringing out the enactment. It conveys the main objectives which the legislation is intended to achieve. It is a sort of introduction to the statute. For example, the preamble to Constitution of India declares "We the people of India having solemnly resolved to constitute India into a sovereign, socialist, secular democratic, republic, and to secure to all its citizens Justice-social, economic and political, Liberty of thought, expression, belief, faith and worship, Equality of status and opportunity and to promote among them all Fraternity assuring dignity of the individual and the unity and integrity of the nation". This preamble itself reveals what the Constitution is directed to, what is the target to be achieved, and what is the goal strived for.

In Maharashtra Land Development Corporation v State of Maharashtra,<sup>4</sup> it was held that the preamble of the act is a guiding light to its interpretation.

#### **4) DEFINITION OR INTERPRETATION CLAUSE**

The definition provides the meaning of the words used in the statute so as to avoid any uncertainty of the meaning of that word. In fact, definition settles the meaning of a particular word. A word which is defined in the Act shall bear the meaning according to its definition and shall be assigned same meaning everywhere it appears in that enactment if context remains the same. Since definition helps in interpreting a particular word, it is also termed as the interpretation clause.

#### **KINDS OF DEFINITION:**

- i) Restrictive or Exhaustive definition
- ii) Inclusive or Extensive definition
- iii) Ambiguous definition.

#### **5) HEADINGS**

In all modern statutes, generally headings are attached to almost each section, just preceding the provisions. For example, the heading of section 437 of the code of criminal procedure, 1973 is "When bail may be taken in case of non-bailable offence".

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<sup>4</sup> (2010) 11 SCC 675.

Headings are not passed by Legislature but they are subsequently inserted after the Bill has become law.

Headings are of two kinds, one those which are prefixed to a section and the other which are prefixed to a group or set of sectioned

Headings can be called in aid while construing a section but the importance attached to headings as internal aid to construction has been differently described by two groups of thought. One group says that heading is to be regarded as preamble to the provisions following them and providing key to interpretation of clauses arranged under it. But other group says that headings can only be taken when enacting words are ambiguous.

## 6) MARGINAL NOTES

Marginal notes are those notes which are printed on the side of a section, generally in a fine or small print. These notes summarize the of the section. effect.

In the past, the marginal notes were also referred to as the aid of construction, but now, as per majority opinion, they are not considered to be helpful. The reason is that in most of the cases the marginal notes are inserted by draftsmen and not by Legislators and not even under the instructions of Legislature<sup>5</sup>. In other words, marginal notes are not enacted part of the statute and are mostly subsequently inserted to summarize the section and as such, they do not carry authority of law for interpreting any statutory provision.

In *Balraj Kunwar v. Jagatpal Singh*<sup>6</sup>, LORD MACNAGHTEN observed that marginal notes to a section of an Act of Parliament cannot be referred to for the purposes of construing the Act. The opinion that marginal notes can be used for interpretation had originated by mistake and has been exploded long ago.

In *Commissioner of Income Tax, Bombay v. Ahmedbhai Umarbhai and Co., Bombay*,<sup>7</sup> JUSTICE PATANJALI SHASTRI observed that marginal notes cannot be referred to for the purpose of constructing the statute.

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<sup>5</sup> INTERPRETATION OF STATUES BY 'D.N. MATHUR'

<sup>6</sup> ILR 26 ALL 393 PC.

<sup>7</sup> AIR 1950 SC 134

## 7) ILLUSTRATION

Sometimes illustrations are appended to a section of the statute in order to explain the provisions of law contained in that section.

For example, Section 7 of the Indian Evidence Act, 1872 provides "Facts which are the occasion, cause or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant". The illustration (a) appended to this section says "The question is, whether A robbed B. The facts, that shortly before robbery, B went to a fair with money in his possession, and that he showed it, or mentioned the fact that he had it, to third persons are relevant". Similarly, the illustration (b) appended to this section says "The question is, whether A murdered B. Marks on ground, produced by a struggle at or near the place where the murder was committed, are relevant facts".

It may be appreciated from above examples that the purpose of illustration is to make the meaning of the section abundantly clear by giving examples.

As regards use of illustrations as internal aids to construction, they are considered to be good and valid aids as they help to elucidate the principle of the section. However illustrations cannot be used to defeat the provision or to modify the language of the section. This is reflected by a legal maxim "Exempla illustrant, non-restringent legem" which means that examples only illustrate but do not narrow the scope of a rule of law.

In *Mohomed Sydeol Ariffin v. Yeah Oai Gark*,<sup>8</sup> it was held that the illustrations are of relevance and value in the construction of the text of the section, although they do not form part of the section. Therefore they should not be readily rejected as repugnant to the sections.

In *Mahesh Chandra Sharma v. Raj Kumari Sharma (Smt.)*,<sup>9</sup> it was held that illustration to the section is a part of the section and help to elucidate the principle of the section.

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<sup>8</sup> 43.IA 256.

<sup>9</sup> AIR 1996 SC 869

## 8) PROVISO

In some sections of a statute, after the main provision is spelled out, a clause is added, with the opening words "provided that....."

For example, Section 23 of Consumer Protection Act says "Any person aggrieved by an order by the National Commission in exercise of its powers conferred by sub-clause (i) of Clause (a) of Section 21, may prefer an appeal against such order to the Supreme Court within a period of thirty days from the date of order:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period."

## 9) EXPLANATION

In some sections, explanation is appended after the statutory provisions. An explanation is considered to be part and parcel of the enactment. There can be many reasons for adding an explanation, e.g., to explain the meaning of words contained in a section and to remove doubts, to include something in the ambit of main enactment or to exclude something from it, to clarify any obscurity or vagueness in the main enactment, to make explicit that which is implicit, to render patent and obvious that which is latent. While construing a provision, the explanation attached to it should not be neglected. The function of an explanation is to explain and not to enlarge or widen ambit of the section or rule. An explanation should be read with a view to harmonize and clear up ambiguity of the provisions of the section or rule. However, the explanation should be restricted to the purpose for which it has been created and should not be stretched beyond that legitimate field. It cannot be used to curtail or enlarge the scope of the section. It can neither control the plain meaning of words of the section nor can have the effect of modifying the language of the section.

## 10) SCHEDULES

In many statutes, the Schedules are added in the end of the enactment. Schedules are considered as a part of the statute.<sup>10</sup> They provide as to how claims under the Act can be enforced or as to how the powers vested by virtue of the statute are to be exercised and contain prescribed forms for working out the policy underlying the sections of the statute. The purpose of attaching Schedule in an enactment is to avoid encumbering the sections with matters of excessive details. Much importance is not attached to Schedules but where the words in a statute are doubtful and uncertain in meaning, Schedule may be used for throwing light on the section to determine its meaning.

### **EXTRINSIC OR EXTERNAL AIDS**

External aids to interpretation of statutes are tools and resources outside the text of a law that help judges and lawyers understand its meaning. When outside sources like other statutes or documents etc. are called in aid for the purpose of construing a provision, it is called external aids to the construction. Various external aids to construction and their usefulness are stated below.

#### **1) PARLIAMENTARY HISTORY**

Legislature enacts the law. All the records created in the process of enactment including Reports of Commission, Inquiry committee, Joint Parliamentary Committee or Study Group; Debates on a Bill in the process of its passing, and Statement of Objects and Reasons accompanying a Legislative Bill constitute "Parliamentary History". The English Traditional view outright rejected Parliamentary History as a good aid to construction. The speech of Minister and the debates held in the Parliament while discussing the Bill were not used for finding out legislative intent. The report of a committee presented to Parliament prior to enactment could not be relied upon for finding out the intention of Legislature but it could be used for finding out the state of law and surrounding circumstances at the time of passing of the Act and the mischief intended to be remedied by the Parliament. This English Practice was criticized on the grounds that the true spirit of law lies in its reason and if the disease sought to be cured and purpose of law is known, the ambiguity can be resolved in best possible manner. Since these reports declare the reason of

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<sup>10</sup> INTERPRETATION OF STATUES BY D.N. MATHUR

law, they should be used for deducing true legislative intent. The modern view holds that the parliamentary material is the background material which unfolds the position of common law, the mischief for which the common law did not provide and defects or shortcomings in the common law due to which it failed to effectively control the mischief. The object of new law is to remedy the mischief reflected in the parliamentary material and the intention of Legislature can be drawn from such material. Therefore, instead of rejecting it outright, it should rather be utilized for gathering the legislative intent and for resolving the ambiguity. Reference to parliamentary material should be permitted to interpret ambiguous or obscure provisions. Clear and unambiguous statements made by ministers in Parliament are as much the background to the enactment of the legislation as white papers and parliamentary reports.

In *Black Clawson International Ltd. v. Papierwerke Waldhof Aschaffenburg, A.G.*,<sup>11</sup> it was held by the House of Lords that the report of a committee presented to Parliament prior to enactment could be looked for finding out the state of law at the time of passing of the Act and the mischief intended to be remedied by the Parliament but the same report could not be relied upon for finding out the intention of Legislature.

## **2) HISTORICAL FACTS AND SURROUNDING CIRCUMSTANCES**

The state of affairs prevailing at the time of passing o passing of law are called "Historical Facts and Surrounding Circumstances". In *Heydon's case* it was laid down that for the sure and true interpretation of all statutes, four things are to be considered (a) what was the common law before the making of the Act (b) what was the mischief and defect for which the common law did not provide (c) what remedy the Parliament had resolved to cure the disease and (d) true reason of the remedy; and the judges shall always make such construction as shall suppress the mischief and advance the remedy. Therefore, to understand the object and purpose of the statute, the Court may take into account the historical facts which existed at the time of passing the statute. The court is also entitled to consider the surrounding circumstances prevailing at the time of enacting a statute. In the construction of statutes, it is permissible to have regard to the state of things existing at the time the statute was passed and to the evils which it was designed to remedy. However, it must be noted that historical interpretation cannot be adopted in every case.

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<sup>11</sup> 1975 1 ALL ER 810 HL.

### 3) **DICTIONARIES**

The purpose of a dictionary is to provide meanings of a word. If a word is strange, dictionary may be referred to get its various meanings. However, to decide which meaning should be adopted, the assembly of words in which that particular word is employed and the context in which that particular word has been used shall be guiding factors. Dictionaries can be taken as safe guides for finding out meanings of such words as are not defined in the statute. However, dictionaries are not final words on interpretation. The words take colour from the context and the setting in which they have been used. It is permissible to assign a meaning or a sense restricted or wider than one given in the dictionaries depending on scheme of legislation wherein word has been used. The court would place such construction on meaning of the words as would enable the legislative intent being effectuated. Where object of legislation is to prevent a mischief and to confer protection on weaker sections of the society, the court would not hesitate in placing an extended meaning, even a stretched one, if in doing so, the statute would succeed in attaining the object sought to be achieved. In most of the modern statutes, the meanings of the words are provided in definition clause. The very object of definition is to make clear the meaning and scope of words used. If a word is not defined in the statute, dictionary may be consulted and a meaning may be selected having regard to the context. But where the expression is defined, it will have same meaning and dictionary meaning shall be of no help. Similarly, dictionary meaning cannot be adopted when a plain reading of the provision brings out what was intended.

### 4) **TEXT BOOKS**

Where the language of the statute is not precise and words employed therein are capable of bearing more than one meaning, the text books may be referred to resolve the ambiguity. The exposition or the analysis of statute by a text writer of repute may also help to understand the meaning of an enactment and hence may be consulted for the meaning of the ambiguous word or language. However, books shall not bind the court in any manner. It shall be the discretion of the court either to accept or to reject the meaning given in the text book. ascertaining

### 5) **STATUTES IN PARI MATERIA**

"Pari" means same. "Materia" means "Subject matter". Therefore "Statutes in pari materia" refers to those statutes which relate to same subject matter. Two statutes are said to be in pari materia

when they deal with same subject, person or thing. Help of a related provision in another Act may be taken in construction of a provision if the two statutes are on the same subject. Two related provisions in different Acts in pari materia may be read together for the purposes of construction and for arriving at the true intent of Legislature. The statutes in pari materia can be lawfully referred to ascertain the meaning of an ambiguous word. If two statutes are not in pari materia, help of one cannot be taken to interpret another. The meaning of an uncertain word cannot be imported from any other statute. Only the statute in pari materia could be pressed into service. The basis of this rule is the presumption that where the same words are used in similar connection in two statutes on the same subject matter, they are intended to convey the same meaning. Similarly, where the words used in a statute have been once interpreted and certain meaning has been assigned to them and the same words in similar context are again used by the Legislature in a subsequent enactment, then those words must receive same interpretation. But this rule shall not be applicable when the decisions on earlier Acts are inconsistent. This rule avoids contradiction between a series of statutes dealing with the same subject; allows use of earlier statute to throw light on the meaning of a phrases used in later statute in the same context and permits a presumption that the meaning of the same word in later statute is same as it was in earlier one, if context remains the same.

#### **6) HELP FROM EARLIER STATUE**

When a word of a statute has been assigned a particular meaning by the court and the Legislature repeats the same word in the same context in a subsequent legislation, it is presumed that the Legislature has reproduced it intentionally so as to bear the same meaning. Therefore to decipher the meaning of an ambiguous word, help may be legitimately sought from the statutes enacted earlier. Legislature is competent to amend an existing law by passing an Amending Act and replace certain provisions or add new sections to the statute or alter the language of a section. The Legislature may also substitute existing words or add new words. After amendment, a statute is to be read and construed with reference to the new provisions.

#### **7) CODIFYING STATUE**

It is a statute which presents an orderly and authoritative statement of the leading rules of law on a given subject. The codifying statute exhaustively states the entire law on a particular subject. A Code is self-contained and complete. When the Code covers a situation, it is not permissible to apply general principles. The court has to proceed on the mandate of the Code only. While

construing a codifying Act, the language used in the Act should be examined without any reference or influence of previous law.

#### **8) CONSOLIDATING STATUE**

It is a statute which consolidates various laws on a particular subject at one place. It collects all statutory enactments on a specific subject and gives them a shape of one statute. After consolidation, the former statutes stand repealed. A consolidating statute is not intended to alter the law and therefore it is relevant to refer to the previous state of law or to judicial decisions interpreting the repealed Acts for the purposes of construction of corresponding provisions in consolidating Act. The provisions in a consolidating Act may have their origin in different legislations. If there is any inconsistency between two such provisions, respective dates of their first enactment may be referred to. The language used in the consolidating Act itself must be examined without any reference to repealed statutes. If consolidating Act fails to provide guidance as to its proper interpretation, the repealed enactments may be looked to.

#### **9) INCORPORATION OF EARLIER ACT INTO LATER**

Sometimes reference of an earlier Act is made into a later Act. The intendment is to operate certain provisions of an earlier statute for the purpose of a later Act without reproducing them in such later Act. This is known as "incorporation". In such cases, the exact language of the provision is to be imported from an earlier Act referred therein. When the provisions of an earlier Act are incorporated by reference into a subsequent legislation, they become part and parcel of the later Act as if they had been actually written in it with pen or printed in it or bodily transposed into it. The net result of such incorporation is that an interpretation attributed to the language of the earlier Act shall be applicable to subsequent legislation as well. If the earlier Act which is incorporated in a later Act is amended or repealed, it shall have no effect on the later Act.

In *C.M. Paramasivam v. Sunrise Plaza*,<sup>12</sup> it was held that "legislation by incorporation" is a device legislatures often resort to for convenience. The legislation by incorporation has the effect that the provisions so incorporated are treated to have been incorporated in subsequent legislation for the first time. Provisions so incorporated become an integral part of the incorporating statute.

#### **10) REPORTS OF COMMISSION, INQUIRY COMMITTEE, JOINT PARLIAMENTARY COMMITTEE OR STUDY GROUP**

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<sup>12</sup> 2013 9 SCC 460: AIR 2013 SC 2941

Sometimes, before introducing a Bill in the Parliament for a proposed law, the Government appoints a Commission or an Inquiry Committee or a Joint Parliamentary Committee (JPC) or a Study Group (SG) for collecting the background information leading to legislation. The terms of reference of such Commission or Committee or JPC or SG are determined. The purpose of constituting such Commission or Committee or JPC or SG is to take stock of prevailing circumstances and the evils which need to be cured by way of enactment. Such Commission or Committee or JPC or SG is asked to submit its report to the Government within a stipulated time. Sometimes Government itself issues a "White Paper" in which the facts leading to enactment of a statute are contained in detail. The question remains what is the evidentiary value of such reports or white paper and whether they can be pressed into service for ascertaining the meaning of a word used in the language or for construing a statutory provision of the enactment which came to be passed in the light of such reports/white paper.

In several cases, the Supreme Court referred to such reports for understanding the surrounding circumstances and the mischief prevailing at the time of passing of the Act. This could enlighten the purpose for which law was made. And if the purpose of enactment is clear, it becomes easier to arrive at the true legislative intent and to attribute meaning to a word or expression or to resolve an ambiguity in the language.

#### USE OF REPORTS OF COMMISSION, INQUIRY COMMITTEE, JOINT PARLIAMENTARY COMMITTEE OR STUDY GROUP FOR RESOLVING AMBIGUITY

Some examples in which the reports of Commission, Inquiry Committee, Joint Parliamentary Committee or Study Group were considered are cited below:

In *C.I.T., M.P. v. Sodra Devi*,<sup>13</sup> it was held by the Supreme Court that the words "any individual" and "such individual" appearing in section 16(3) were restricted in their meaning to males only. In holding so, Income Tax Enquiry Report was referred to.

In *Shriram Chits and Investments (P.) Ltd. v. Union of India*,<sup>14</sup> the validity of Chit Fund Act, 1982 was in question. Supreme Court referred to the report of the Banking Committee prepared in 1972, the report of the Select Committee of Parliament, the report of the Study Group on Non-Banking Financial Intermediaries constituted by the Banking Commission and the report of Raj Committee. In consideration of all these reports, the Supreme Court upheld the reasonableness and validity of Chit Fund Act, 1982.

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<sup>13</sup> AIR 1957 SC 832.

<sup>14</sup> AIR 1993 SC 2063.

## 11) FOREIGN DECISIONS OR FOREIGN JUDGEMENTS

By foreign decisions we mean those judicial decisions which have been delivered by the courts of other countries. The question is how far the judgments of foreign courts can be relied upon and what is the importance attached to such judgments in the matters before Indian courts.<sup>15</sup> No doubts can be raised as to the authority of precedent. A precedent means a preceding instance or case which may serve as an example for or justification in subsequent cases. It is an established rule to abide by former precedents, where the same points came in litigation, so as to keep the scale of justice even and steady. Whether foreign decisions can serve as precedent before Indian courts and whether they have binding force, is the matter of discussion. In the pre-constitution period, references were frequently made to English decisions. When the language was not clear in an Indian statute, knowledge of English law was used. But as the treasure of Indian precedents got enriched, the dependence on English decisions reduced. At present, there are rare occasions when the foreign decisions are called in aid.

THE USE OF FOREIGN DECISIONS IS PERMISSIBLE. HOWEVER, THERE ARE CERTAIN CONDITIONS IN THIS REGARD.

- (a) The foreign judgments sought to be referred must be of those countries which follow same system of jurisprudence.
- (b) Prime importance is to be given to the language of Indian statute, circumstances and setting in which it was enacted and Indian conditions where it is to be applied.
- (c) There should be similarity in political thought of India and that country, the decision of the court of which is being relied.

In *Liverpool and London S.P. and I. Assn. Ltd. v. MV Sea Success I.*,<sup>16</sup> it was held that the Supreme Court is not bound by foreign (American) court decisions and those decisions have only persuasive value. But the court can borrow the principles laid down in a foreign decision, if the same are in consonance with Indian law keeping in view the changing global scenario.

In *Union of India v. Naveen Jindal*,<sup>17</sup> it was held that although interpretation of Constitution of India should be primarily based on materials available in India, relevant rules of other countries can be looked into for guidance.

In *G. Sundarrajan v. Union of India*,<sup>18</sup> the Supreme Court interpreted the Civil Liability for

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<sup>15</sup> INTERPRETATION OF STATUES BY D.N. MATHUR.

<sup>16</sup> (2004) 9 SCC 512.

<sup>17</sup> (2004) 2 SCC 510.

<sup>18</sup> (2013) 6 SCC 620.

Nuclear Damage Act, 2010 by considering foreign laws such as US Price-Anderson Act, 1957, German Atomic Energy Act (1959), Swiss Federal Law on the Exploitation of Nuclear Energy for Peaceful Purposes and Protection from Radiation (1959) and Japanese Law on the Compensation of Nuclear Damage (1961) and the judicial decisions made on those laws.

## 12) **REFERENCE**

- 1) <https://www.southcalcuttalawcollege.ac.in/Notice/50488AIDS%20TO%20INTERPRETATION.pdf>
- 2) INTERPRETATION OF STATUTES BY “D.N. MATHUR.”
- 3) INTERPRETATION OF STATUTES BY “DR M.P. TANDON.”
- 4) AIR 2004 SC
- 5) AIR 1950 SC

