

Foundational Rules of Interpretation of Statute

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Abstract

This article reconnoiters of connotation and significance of foundational rules of interpretation of statute in judicial system these fundamental rules enables the legal fraternity including beginners and specially the judges to persuade the intention of lawmaker in its true sense and determine the fate of subject by contemplating the object ,comprension of statue is expertise and aptitude through competence the complexity of expressions can be understood as many of the statute crafted in simple grammatical order and some of them have complex expressions and have profundity and complexity and those expressions one who has expertise in a subject can effortlessly interpret, appreciate the purpose of the text and intention behind the expressions used in statute, besides this every word and expression which is used in statute has multiple meanings and to interpret or perceive those expressions in a systematic way by the common person is an enigmatic perseverance and while interpretation of statute any obscurity or ambiguity emerges than the interpretation which support the objective of legislation would be adopted in this study the important rules have been highlighted alongwith details of their application while administering the justice .

Keywords: foundational rules, Interpretation, Statute,

Introduction

The article is based upon an idea that basically there are the foundational rules, those are applied by judges in order to interpret the statute. It is further noted that the statute is actually provided in the textual form and the interpretation of it remains a subjective matter. Hence, the courts under the law enacted by the national legislature can interpret the statute through different ways. It is further added by de Slovene (1993) that, question of interpretation usually follows three steps first, whether the fact and law are mutually exclusive or the fact follows the law or otherwise. Second, how the law impacts on the functioning of the court and jury, third, how the evidence supports the interpretation of law. He further added that, meaning of words is actually derived through the discretion of those who interpret them through the lens of context, fact and law. “Textualism” actually makes the “law” to be embodied in the language of the statute, which could be analyzed judicially and through the development of rules of interpretation. As it is mentioned by Justice Oliver Wendell Holmes “We do not inquire what the legislature meant; we ask only what the statute means.” Despite the recent debate of “textualism”, it is not the exclusive means of statutory analysis, and it also discusses “internationalist”, that is based upon the interpretation and the Court’s approach toward relying on legislative history and other extrinsic considerations (Kim, 2009). Easterbrook (1984) mentioned that, laws are made for the general welfare of the public and it is not possible to make a law to solve each and every problem of the community hence, the burden is indirectly landed into the stakeholders who either make the law or those, who interpret them ultimately. CRS (2022) however noted that the judges interpret the law to give meanings to the words of the lawmaker and the personal views shall not be included in the decision making of legal matters. The report further added that interpretation is the objective exercise hence, the restraint must be exhibited in order to separate the objective and subjective interpretation of the law under consideration.

Literature Review

Courts “describes the meaning of the law as “by resolving legal disputes in individual cases. Actually, it becomes true when a court interprets a positive law, such as a statute or regulation, or

reasoning from a prior judicial precedent, taken through a body of law known as the common law. With respect to the historical common-law tradition of making law through judicial opinions, a court can reason through the example, applying general “principles of equity, natural justice, and . . . public policy” to the specific circumstances before the court (Stier et al., 2007). Indeed, case by case, a common-law court can decide whether each set of circumstances should follow the rule of a previous decision. It is also possible through resolving a statutory dispute, courts generally do not simply determine, based on equity or natural justice, what can be a reasonable course of action under the circumstances. Instead, the court must “figure out what the statute means” and apply the statutory law to resolve the dispute. However, Legal thinking is actually taken from the natural law, which is the belief that law consists of a set of objectively correct principles derived “from a universalized conception of human nature or divine justice.” The goal of a judge in a natural law system is to “conform man-made law to those natural law principles.” Accordingly, court can look into the “the equity of the statute,” seeking to find “the reason or final cause of the law” in order to address “the mischief for which the common law did not provide,” but the newly enacted statute did, “and to add life to the cure and remedy, according to the true intent of the makers of the act. Both natural law and formalism both are taken from the norm that the law can provide one right answer to any question and lawmakers may find out that answer. For those who subscribed to these schools of thought, the source of this answer is neither the legislature nor the courts, but the higher principles of law themselves. When natural law and formalism dominated legal thinking, “it did not matter as much whether judges conceived of themselves as faithful agents of Congress or coequal partners in law elaboration.” This is because under these theories, both courts and legislators are engaged in the same process of finding the one correct answer and if courts discover the answer to the legal question presented, proponents of natural law and formalism contend that there is no need to defer to the legislature (Anenson, 2017).

Basic Concepts of Interpretation of Statute:

To make a world better place to live in civilized society laws have been created and crafted by legislatures the term "legislation" is used in its most important contemporary connotation to

refer to the purposeful formation of legal precepts by an instrument of government that is established for two objectives and that articulately expresses such legal precepts in a formalized legal document and to comprehend and appreciate the intent of legislature in its true connotation by the courts is called interpretation of statute or statutory interpretation, as from the former expression "interpretation" it is clear that it delineate to analyze, define and to describe and from the latter expression "statute" means to describe or construe written law passed by the statutory body The term interpretation, as per ordinary dictionary, meaning is "understanding, appreciation, conception, or interpretation and the process of explaining statutes" is called interpretation of statute. Salmond was an eminent jurist and he defines interpretation as it is the process to which the court seeks to ascertain the meaning of the Legislature through the medium of authoritative forms in which it is expressed another great author Maxwell defines interpretation of statute as "the object of all interpretation of a statute is to determine what intention is conveyed either expressly or impliedly by the language used, so far necessary determining whether the particular case or state of facts presented to the interpretation falls within it". The aim to emphasize and highlight the significance and importance of interpretation of statute and its rules is to persuade and reinforce the eloquence of the subject in the legal profession.

No organ of judicial system can deny the significance of the rules of interpretation of statute as the court has no power to make or formulate law however the judiciary may derived law through judicial decisions as the main function of the court is to interpret and administer the law whereas making or crafting law is exclusive dominion of law giver and the court interpret the laws according to statutory language to create a better understanding of the subject according to the intent of the legislature and it is an act of legislature to lucid, command or proscribe something. The statutes in broad-spectrum are laws, canon, rules, regulations and ordinance which are in written form passed by the legislature. There are different divisions of statute for its comprehension such as short title, long title, preamble, marginal notes, side notes, headings, illustration, explanation, definitions, interpretation clause, schedules, saving clause, proviso, exception, and punctuation.

Research Methodology

Walliman (2010) described research methodology as an overarching framework through which the study is conducted. The research methodology provides all the details regarding what is to be studied, how it is to be studied and the possible outcome of the study. Kumar(2018) added that, research methodology is different from research design as the design only includes how the study can be conducted based upon the chosen research methodology(e.g. positivism, interpretivism). Mehrad & Zangeneh (2019) differentiated between quantitative and qualitative research design by highlighting that, qualitative study is based upon the concept of interpretivism while quantitative study mainly explains the phenomenon in the objective manner. Hence, this study is based upon the concept of interpretivism while applying the qualitative research design through content analysis.

Rules and Discussion

Basically, every word in statute is to be contemplated by meaning and for that purpose there are general principles & Rules of interpretation. There are four Fundamental or primary rules of interpretation, these are briefly described below:

1. The literal Rule
2. The Mischief Rule
3. THE Golden Rule
4. Harmonious Construction

1. Rule of literal interpretation

Literal rule concedes the courts to comprehend that whatever is enacted in the subject should be explicated according to its general or ordinary sense. Literal rule has not binding effect, this rule empowers the court to interpret its literal or textual meanings or the court depicts the statute in its ordinary grammatical meanings. the most important benefit of this rule is that it is comprehensible, unambiguous, crystal and clear easily understandable even by the lay man that's why this rule is called beneficial, explicit or expressive rule .this rule empowers the judge to

apply the meaning of statute word by word of lawmaker and shall not allow the judge to use his/her own opinion or discernment. The first and utmost benefit of literal rule is that if the words can be understood in one way, the court would not take on other hypothesis.

2. The Mischief Rule

In legal system mischief rule has major significance in statutory interpretation as this rule empowers the judge to effectively adjudge the suppress mischievous which is hold back behind the statute and the judge carry out the mischief in advantage on the basis of logic this rule also approves the judge to use discretion by considering intent of lawmaker. In simple words, the rule of interpretation accredits the judge more discretion than the other rules of interpretation to determine the legislature's intention.

In short this rule applies to resolve the ambiguities while keeping in consideration the history and reasons of enactment, this rule when a language has more one meaning and it allows the law to evolve and adapt to changing needs.

This rule originated in 1584 in Hayden's case, in simple words, Mischief Rule of interpretation is termed as healing, therapeutic or beneficial rule because its object is remedial and to cure mischief.

3. The Golden Rule:

The Golden rule of interpretation of statute is adaptation or variation of the Literal Rule as in literal rule the court considers the textual or literal meaning of the statue and if such interpretation creates ambiguity, vagueness or ambivalence then the court modifies the literal grammatical meaning of the Provision. The golden rule empowers the judge to correct drafting errors and it adds common sense to law. This rule is also known as the beneficial rule because if the literal rule causes any ambiguity or obscurity, all literal meaning would be rejected and the possible interpretation would be made in a manner that could serve the object of legislation.

4. Harmonious Rule of Construction

This rule allows the judge when there is conflict between two or more statutes or two or more parts of the statutes then harmonious construction to be adopted from the phrase harmonious it is evident that it speaks about harmony and harmonization. This rule of statutory interpretation emphasizes that in case of divergence in meaning of literal interpretation which results in hardship, injustice, inconvenience or anomaly then dissimilitude should be avoided and the inference which supports the sense of justice should be adopted. In AIR 1967 SC 1211, held that it is a well settled rule of construction that the provisions of one section cannot be used to defeat those of another, unless it is impossible to effect reconciliation between them. In other words, the rule of harmony interpretation makes sense which carries out its object.

Conclusion

Thus the rules of interpretation of Statute have great significance in the judicial system and without perspicuous appreciation of the subject, it is strenuous to dispense justice in fair and legal manner and for that purpose expertise and skills of interpretation of Statute shall be upsurge for dispensation of justice.

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