

Principle of Harmonious Interpretation: The Approach of Indian Courts

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Abstract

In India, the Constitution is considered as the supreme law of the land, and everything that is not in the spirit of its provisions is considered as ultravires. Certain norms of interpretation are applied to resolve discrepancies between Constitutional provisions when they occur. One such guideline, the “Principle of Harmonious Interpretation,” is the subject of this essay. The rule is extremely important since it attempts to reconcile contradictory laws in order to find a workable solution. It also aims to defend the very intention of the constitution's writers while establishing the provisions. With the aid of several case laws, the paper's primary goal is to comprehend how Indian courts approached the harmonious rule before and after independence as well as the difficulties associated with it. The main objective of this project is understanding the legal principles and approach applied by Indian Courts on the application of the doctrine of harmonious construction mainly focusing on pre and post-independence by means of several case laws to maintain the existence of contradicting laws in order to find a middle ground through proper interpretation of the same. The paper also focuses on the important aspects kept in mind by the courts while applying the principle of harmonious construction and trying to interpret the contradicting laws with an aim of co-existence of laws. The paper also takes a look over the aspect of separation of power and how the judiciary refrains itself from stating any law as null and void as the power of judiciary is to only interpret the intend of legislature and not make of nullify laws.

Keywords: Harmonious construction, judicial approach for harmonious construction, rule of interpretation

INTRODUCTION

“Laws are made for men of ordinary understanding and should, therefore, be construed by the ordinary rules of common sense. Their meaning is not to be sought for in metaphysical subtleties which may make anything mean everything or nothing is pleasure.”

—Thomas Jefferson

The Doctrine of Harmonious Construction obligates that all the provisions of every statute are to be read in accordance with the particular statute as a whole along with all other relevant legislation, for avoiding any kind of erroneous interpretations or misconstrued applications which might result from a lack of coherence and severely isolated interpretation of any specific section or provision. The doctrine further stipulates that when a law is to be applied by the judiciary, it has to be applied in accordance with all the applicable provisions to the extent that there is no conflict between the provisions of the laws, and in the event that there is a conflict, the provisions has to be interpreted and made applicable in a way that justify the spirit and principles of the law without contravening either

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one's sanctity. The objective of this principle is to respect and uphold all laws, avoid disagreement over or exploitation of any legal gaps, and conform to all rules as much as possible. All laws should be rationally interpreted before applying to the facts before the bench.

In order to avoid any sort of conflict between the provisions or between the statutes, harmonious construction is used, and harmony is preserved within those sections or statutes. It follows that the principle of harmonious construction is to be applied by the courts in order to achieve two goals:

- (a) To maintain uniformity within the enactments; and
- (b) To prevent any kind of incompatibility or repugnancy between the innumerable provisions and legislation.

DISSECTING THE PRINCIPLE OF HARMONIOUS CONSTRUCTION

The phrase “harmonious construction” refers to a construction in which several provisions of an enactment are brought into harmony or uniformity. The meaning by which the words better harmonise with the subject-matter and subject-matter of the law should be accepted if there are multiple possible interpretations of the terms of the statutory provision and there is uncertainty as to which interpretation should prevail. The doctrine of harmonious construction is one of the main guidelines or principles for legislative interpretation in the Indian legal system. The doctrine states that “every effort should be made to give effect to all the provisions of an Act by harmonizing any apparent conflict between two or more of its provisions” [1]. It is fairly obvious that the legislature passes legislation with a certain intention in mind. It is sometimes assumed that the legislators left no room for ambiguity in the wording of the statute and utilised specific terms to open their eyes. Furthermore, it is assumed that all the terms in a legislation are well-written and harmonious with one another because the legislature is not expected to contradict itself by proposing incompatible clauses. The legislation ought to be interpreted in this way as well in order to avoid any repugnance.

The legislature intends for each provision to continue to be in effect. But if two clauses are incompatible with one another, they cannot both be implemented, and as a result, one of them must be eliminated in light of the well-known fundamental principle of *ut res magis valeat quam pereat* (It is easier for a thing to have an impact than to be considered empty, which means that the best way is to validate it rather than holding it inactive) [2]. This interpretation, which resolves any existing inconsistencies and maintains the coherence of all sentences, ought to be allowed to take precedence. It promotes harmony among the three lists mentioned in Schedule 7 of the constitution of India. It is a general rule of construction that where two clauses of the same legislation are in conflict with one another, neither of them should be understood such that it affects both, and that, even as a last alternative, neither should be interpreted in a way that renders either of them ineffective and outdated.

OBJECTIVE OF THE DOCTRINE

The Supreme Court has given five principles for the doctrine of harmonious construction in the case of *CIT vs. Hindustan Bulk Carriers* [3], these principles are as follows:

1. The courts must interpret apparently contradictory clauses in a way that harmonises them in order to avoid a head-on conflict of legislation [4].
2. The provision of one section cannot be interpreted in a manner which defeat the provision contained in another unless the court, despite all its endeavours, is unable to find a way to reconcile the differences between [5].
3. When it is not possible to completely reconcile the differences in conflicting provisions, the courts should interpret them in such a manner that harmonious effect is given to both provisions as much as possible [6].
4. Additionally, courts must remember that a harmonious construction is not one that turns a provision into a meaningless number or a dead one.
5. To harmonize does not mean to destroy any statutory provision or to declare it fruitless [7].

HISTORICAL PERSPECTIVE OF THE DOCTRINE

The evolution of this doctrine can be traced in the Indian constitution by the amendment brought due to the case of *Shankari Prasad vs. Union of India* [8] where the question before the court was concerning a contradiction between Part III and Part VI of the constitution, the fundamental components of the constitution are the Fundamental Rights and the Directive Principles of State Policy, which are stated in separate parts of the constitution. Using the doctrine of harmonious construction, the Supreme Court reached its decision and, in doing so, determined that fundamental rights are those that are granted against the state, whereas guiding principles for state policy are those that are granted to the state to support social and economic development of the nation. Therefore, in terms of fundamental rights, they can be restricted by the government under certain conditions, and Parliament has the authority to change these rights to bring them into compliance. As a result, the principle of harmonious construction was applied by giving both preference because they were seen as two opposing sides of the same coin. For the sake of the common good, they must collaborate [9].

The genesis of the principle of harmonious construction can further also be traced back to the case of *C.P. and Berar Sales of Motor Spirit and Lubricants Taxation Act, 1938* [10]. The issue, in this case, was whether the respondent has to pay sales tax to the provincial government or should he pay excise tax to the federal government. By harmoniously interpreting both laws in order to avoid any conflicts between either provision, the three-judge panel of the Federal Court of India was able to resolve the inconsistencies between the pertinent entries on the Central List and Provincial List under the Government of India Act 1935. The bench unanimously decided that the corporation had to pay an excise tax to the Central Legislature for the manufacture of the motor spirits, and that the Provincial Legislature had to collect a sales tax from customers who purchased the motor spirits. By using the Rule of Conciliation, which is the precedent to the application of the Doctrine of Harmonious Construction in India, this judgement harmoniously interpreted both sections without contradicting or invalidating the other.

JUDICIAL APPROACH TOWARDS THE DOCTRINE

The Indian judicial system relies extensively on this doctrine while deciding cases. The judiciary's adoption of this Doctrine is of utmost importance due to the massive variety of laws in the Indian Legal System and the numerous disputes that result from them. By applying the norms of interpretation, the courts have made remarkable efforts to harmonise various statutory provisions, and in doing so, they have attempted to explain the legislative intent behind the framing of those provisions in both the constitution and various statutes. Despite the fact that this doctrine was explicitly stated and adopted in the decision of *Commissioner of Income Tax vs. Hindustan Bulk Carrier*, its use can be observed in a number of significant decisions made prior to that, both pre- and post-independence. These concepts have been applied implicitly in several judgments, and their interpretation of laws when deciding disputes reflected this.

Doctrine of harmonious construction is the first option preferred by the Indian judiciary while resolving a dispute as the court prefer to give a wholesome interpretation to the disputed clauses instead of nullifying them as the judiciary believes that declaring a law as null and void should be the last option as legislature has an intend to enact such law, by nullifying such law the intend of the legislature will be killed and it might also create some loopholes afterwards. The above approach of courts can be observed in several cases which are as follows.

Venkataramana Devaru vs. State of Mysore [11]

In this case a petition under section 92 of the C.P.C. was filed by trustees of an prestigious and historic temple of Sri Venkataramana in Moolky Petta to challenge the elimination of harijans' entry restrictions into Hindu temples. They argued that the temple was not covered by section 2(2) of that Act and that section 3 of the Act was invalid because it violated Article 26(b) of the Constitution. So, an appeal was filed to the trial court, which rendered a judgement against the appellants. But the High Court issued a

narrow ruling in their favour. For the purpose of settling the conflict between two Articles, an appeal was also made to the Supreme Court.

The issue raised before the supreme court of India was, “*whether the rights of a religious denomination to manage its own affairs under Art. 26(b) are subjected to Art. 25(2) (b)*” [12]. The provisions were directly conflicting with one another, but the Supreme Court's constitutional bench was able to harmonise them. The judgement was decided in that regard because the bench thought that sustaining Article 25(2)(b) [13] over Article 26(b) [14] would entirely invalidate the latter, or, alternatively, upholding the latter over the former would only partially invalidate the former. The court determined that the provisions of Article 26(b) controlled the application of Article 25(2)(b), allowing the temple to set its own rules and restrict public at large from participating specific religious activities, with exception of an exclusive sect of Hindus.

The bench explicitly applied the Doctrine of Harmonious Construction when it rendered this significant decision. The facts of the case, however, made the provisions in this case directly in conflict, and the court recognized one provision over the other to a certain extent, thus superseding only a portion of the other provision.

Sirsilk Ltd vs. Government of Andhra Pradesh [15]

The Industrial Disputes Act, 1947's Sections 17 and 18 were the subject of the conflict. According to Section 17, the Industrial Tribunal's decision must be published 30 days after it is made [16]. In Section 18, the parties to the dispute discuss reaching a settlement, and it is stated that this settlement is binding on the employer and the employees [17]. The Industrial Tribunal made a judgement about the current issue, but before it could be made public, the parties reached a mutually beneficial settlement. In the interest of preserving industrial peace, they sought to stop the release of the ruling, which awarded a specific compensation.

The Andhra Pradesh government argued that they had a legal obligation to make the Tribunal's decision public. The measure in question was the fact that the agreement was reached after the Tribunal had transmitted its decision to the relevant body for publication, a circumstance that was not permitted by the law. The Industrial Disputes Act of 1947's Section 18 allows for such settlements and makes them binding, so the Supreme Court's three-judge panel concluded that the settlement reached by the parties amicably resolves the dispute and eliminates the need to publish the Tribunal's decision. This was the very goal of the litigation before the Tribunal.

Because of this extraordinary circumstance, the judiciary is able to restrict the publishing of the Tribunal's award because doing so would have no advantage over the outcome of upholding the petitioner's claims. As a result, the bench determined that since the problem at hand merely related to the timeline of events, adopting Section 18 in the case at hand did not contravene the terms of Section 17.

MSM Sharma vs. Krishna Sinha [18]

Article 19(1)(a) and Article 194(3) of the constitution of India were in conflict in the present case. All citizens of India have the fundamental right to freedom of speech and expression under Article 19(1)(a) [19]. The specific powers, privileges, and immunities of the House of State Legislature and its members are stated under Article 194(3) [20].

The dispute was initiated when a speaker of the Bihar Legislative Assembly made certain very harsh and derogatory remarks against the chief minister of the state. Although this harsh criticism was eliminated from the official record and transcript of the parliamentary proceedings, but it was still available for public contemplation, and a journalist from the reporting company “Searchlight” published the portions of the speaker's hate speech that had been removed. The speaker contended that this

publication has violated the privilege of the house as the same is indirectly conferred by Article 194(3) of the Constitution of India. In response to which the journalist retaliated by claiming that he was using his right to free speech and expression conferred by Article 19(1)(a) of the Constitution.

After applying the principle *Generalibus Specialia Derogant*, the Constitutional Bench of the Supreme Court declared that the special requirements of Article 194(3) will take precedence over the general provisions under Article 19(1)(a). The court's interpretation of the laws in order to harmoniously resolve the resulting controversy is one of the first demonstrations of the Doctrine of Harmonious Construction in action. In this instance, the court upheld the special provision over the general provision in light of the facts of the case.

Calcutta Gas Company Pvt. Ltd. vs. State of West Bengal [21]

In the present case, the respondent pursued to acquire control of the company under the Oriental Gas Company Act, which was passed by the state legislative assembly in 1960. As a result, the appellant contested the Act's legality on the grounds that the state legislature lacked the authority to pass it under Entries 24 and 25 of the State List and that the Parliament instead retains this authority under Entry 51 of the union list, under this entry the Centre has already passed the Industries (Development and Regulation) Act, 1951, which gives the Union the authority to regulate industries.

As a result, the Supreme Court interpreted these Entries using the principle of harmonious construction and noted that certain topics in the three lists may overlap in terms of the Constitution, necessitating judicial interpretation of those Entries using specific guidelines. These entries need to be reconciled by the court in order to avoid any conflicts and to give effect to all of them since they are in disagreement with one another. As far as the ambit of Entries 24 and 25 of the State List are concerned, the ambit of Entry 24 covers all industries, with the only exception of the gas industries, while Entry 25 of the list covers the gas industry. Entry 24 of the State list is correspondent to Entry 52 of the Union list. Therefore, it can be argued that the gas industry is related to some extent to the State list under Entry 25 and that as a result of the same, the State has complete control over it after the application of the rule of harmonious construction [22].

Gujarat University vs. Krishna Rampanath Mudholkar [23]

In this case the court has taken a different approach towards the doctrine of harmonious construction. In this case one of the respondents had enrolled in the first year of the arts programme at St. Xavier's College, which was affiliated with Gujarat University and offered English as the primary language of instruction. However, as the respondent was preparing for the intermediate examination, the college's principal informed him that he had been denied admission due to violations of statutes 207, 208, and 209 and that the college had no authority to admit him. As a result, the boy's father approached the Vice-Chancellor for approval but was turned down. He then filed a writ petition before the High Court pursuant to Article 226 to necessitate the enforcement of sections 4 (27), 18(1)(XIV), and 38 A of the Gujarat University Act and the Statutes.

The court granted the petition, but the state and university each filed an appeal, arguing that the University has the authority to require either Gujarati or Hindi as the language of instruction under Section 4 of the Act. It was therefore in dispute before the court whether Entry 66 of the Union List of the Constitution upheld the validity of the legislation imposing such a medium of instruction and examination, and if the University has the authority to do so [24].

Since clause (27) of section 4 of the Act did not suggest any such power of the legislature, the High Court concluded that the Act did not give the University the authority to demand Gujarati or Hindi as the medium of teaching and examination. Thereafter, the University and the State took their case to the Supreme Court for review after initially losing in the High Court. Therefore, the Supreme Court has reviewed Article 11 of List II, Article 66 of List I, and the entire field of education that is under the purview of the state legislature.

The Supreme Court ruled that it is unreasonable to divide education into two lists under the headings of education de hors to state and medium of instruction to Parliament. Entry 66 of the Union list specifies the language of instruction for specific educational institutions, and this provision has allowed Parliament to pass laws to improve educational standards and provide financial aid to underdeveloped educational institutions, while Entry 11 of State law specifies that states can enact laws to educate their citizens. As a result, we employed the harmonic structure and learned that while the state has broad authority, the parliament has more narrow authority over this issue. Thus, it was determined that Parliamentary law should take precedence and that the institution lacked the right to mandate a specific language as the medium of instruction and testing.

Prof. Yashpal and Anr. V. State of Chhattisgarh [25]

The supreme court applied the doctrine in this recent landmark judgment where the petitioner, was a distinguished scientist and former chairman of the University Grant Commission. He challenged the constitutionality of the Chhattisgarh Niji Kshetra Vishwavidyalaya (Sthapana Aur Viniyaman) Adhiniyam, 2002 in a writ petition filed under Article 32 of the Constitution. The State was given the authority to incorporate and establish universities under Section 5 of this Act, and these universities were given the authority to affiliate with any institution or college with the previous approval of the state government as specified in Section 6 of the Act. The petitioner's main argument was that, after this Act had come into effect, within a year, the State government had established approximately 112 universities by publishing notifications in the official gazette without giving any thought to the infrastructure, teaching facilities, or financial resources. The legislation was not adhering to the UGC recommendations.

Further, despite the fact that such authority is granted under Entries 63–66 of the Union List, these private universities were offering professional courses without the previous consent of regulating authorities like the Medical Council of India or the All-India Council of Technical Education [26]. The state administration submitted its rebuttal affidavits in State List Entry 32. Students would suffer a great loss as a result because, in the absence of such authorization, their diplomas and degrees would not be accepted by any professional associations or be taken into consideration by the UGC. The State government did not even check these institutions to see whether they were adhering to any rules established by the statutory bodies.

The Supreme Court recognised the necessity to protect the interests of the students enrolled in those institutions in order to align the UGC Act with the Chhattisgarh Niji Kshetra Vishwavidyalaya (Sthapana Aur Viniyaman) Adhiniyam, 2002, The court, however, declared sections 5 and 6 to be illegal and quashed them, ordering the State to take specific actions to associate those schools with the state universities and modify the Act in accordance with UGC standards [27].

ANALYSIS OF JUDICIAL APPROACH

Conflicts are inevitable since the Indian Legal System contains one of the most extensive collections of laws. Due to the sheer number of laws that apply in India, there are a number of loopholes and gaps in the laws that corrupt officials in positions of power and members of a well-connected social group, which frequently controls major industries, can take advantage of. Other gaps and loopholes are purposeful. These gaps are caused by mistakes people make, real oversights, and purposeful misinterpretations, not by ignorance of the law. The regrettable richness of cases where the provisions of various legislatures conflict with one another and necessitate the use of the Doctrine of Harmonious Construction is sure to arise in the judiciary as a result of this.

The landmark judgments discussed above, show a variety of instances in which the doctrine of harmonious construction is applied in varied ways. The case of Venkataramana Devaru v. State of Mysore, demonstrates how the Doctrine is used when one provision is weighed against another in a way that one is fully applicable and the other is partially applicable. The case of M. S. M. Sharma v. Krishna

Sinha, illustrates how the Doctrine is applied in such a way that the specific provisions entirely trump the general provision, rendering the general rule inapplicable to the current conflict. Similarly, the important aspect of this doctrine and the intention of judiciary behind implementation of this doctrine was dictated by the court in the case of CIT vs. Hindustan Bulk Carriers. The case of *Sirsilk Ltd. v. Govt. of Andhra Pradesh* illustrates how to apply the doctrine in a situation where the conflict does not even arise by interpreting the facts in a way that obviates the need to apply one provision, leading to the full upholding of the other provision without violating the first. The importance of the Doctrine of Harmonious Construction and its extensive applicability in our legal system are vividly highlighted by this diverse collection of examples.

This doctrine's application is not exclusive to India; it is a widely accepted and used principle that serves as a tool for delivering justice. As this theory is widely used in common law countries such as England and Australia, it is undeniably a necessary and beneficial tool for courts everywhere. The doctrine of harmonious construction, which is a crucial, vital, and extremely necessary component of our extensive and complex legal system. Since the time before independence, the idea has been implemented both officially and implicitly in the Indian legal system. This Doctrine's varied applications provide a clear indication of its significance and applicability. The Indian Legal System would be considerably more complicated, rife with inconsistencies, risky precedents, and unfathomable intricacies without this Doctrine.

CONCLUSION

As discussed above, the doctrine of harmonious construction is very crucial to the survival of Indian Legal System as well as the integrity of the dispute resolution process by Indian judiciary. The Indian judicial system is making significant efforts to apply the harmonious rule of interpretation in order to settle conflicts between laws and uphold the provision's original intent as established by the constitution's framers. As a result of our analysis of the various cases mentioned above, we have come to the conclusion that the Indian courts use the principle of harmonious construction or interpretation as an effective tool of interpretation to not only resolve disputes but also to reach significant decisions on a wide range of subjects.

George Washington expressed it best when he said, "*The administration of justice is the firmest pillar of the government* [28]." In accordance with this idea, the court should correctly interpret the laws and intelligently apply the rules for interpretation of laws in order to provide swift justice to the citizens of this nation.

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