

CORE COURSE 210 INTERPRETATION OF STATUTES & PRINCIPLES OF LEGISLATION

OBJECTIVES OF THE COURSE:

Legislation is the major source of law of the modern era. Legislatures enact laws after much deliberation. No doubt in this process they have to take into account the present and future needs of the people. What are the matters to be reckoned with by legislature while enacting laws? With the emergence of legislation, interpretation of statutes became a method by which judiciary explores the intention behind the statutes. Judicial interpretation involves construction of words, phrases and expressions. In their attempt to make the old and existing statutes contextually relevant, courts used to develop certain rules, doctrines and principles of interpretation. Judiciary plays a highly creative role in this respect. What are the techniques adopted by courts in construing statutes? How far are they successful in their strategy?

SYLLABUS

1. GENERAL AND RULES OF STATUTORY INTERPRETATION:

- 1.1 Meaning of the term “Statute”.
- 1.2 Commencement, operation and repeal of statutes
- 1.3 Purpose and importance of Interpretation of Statutes
- 1.4 Meaning: ‘Interpretation’ and ‘construction’
- 1.5 Rules of Statutory Interpretation
 - 1.5.1 Primary Rules
 - 1.5.2 Literal Rule
 - 1.5.3 Golden Rule
 - 1.5.4 Mischief Rule (Rule in Heydon’s Case)
 - 1.5.5 Rule of Harmonious Construction
 - 1.5.6 Secondary Rules:

Noscitur a sociis

Ejusdem generis

Reddendo singula singulis

2. AIDS TO INTERPRETATION:

- 2.1 Internal aids
 - 2.1.1 Title, Preamble, Headings and marginal notes
 - 2.1.2 Sections and sub-sections, Punctuation marks
 - 2.1.3 Illustrations, exceptions, provisos and saving clauses
 - 2.1.4 Schedules, Non-obstante clause
- 2.2 External aids
 - 2.2.1 Dictionaries
 - 2.2.2 Translations
 - 2.2.3 Travaux Préparatoires
 - 2.2.4 Statutes in pari materia
 - 2.2.5 Contemporanea Expositio
 - 2.2.6 Debates, inquiry commission report and Law Commission reports

3. PRESUMPTIONS IN STATUTORY INTERPRETATION:

- 3.1 Statutes are valid
- 3.2 Statutes are territorial in operation
- 3.3 Presumption as to jurisdiction
- 3.4 Presumption against what is inconvenient or absurd
- 3.5 Presumption against intending injustice
- 3.6 Presumption against impairing obligations or permitting advantage from one's own wrong
- 3.7 Prospective operation of statutes

4. INTERPRETATION WITH REFERENCE TO THE SUBJECT MATTER & PURPOSE AND PRINCIPLES OF CONSTITUTIONAL INTERPRETATION

- 4.1 Interpretation with reference to the subject matter & Purpose
 - 4.1.1 Restrictive and beneficial construction
 - 4.1.2 Taxing statutes
 - 4.1.3 Penal states
 - 4.1.4 Welfare legislation
- 4.2 Principles of Constitutional Interpretation :
 - 4.2.1 Harmonious construction
 - 4.2.2 Doctrine of pith and substance
 - 4.2.3 Colorable legislation
 - 4.2.4 Doctrine of repugnancy
 - 4.2.5 Prospective Overruling
 - 4.2.6 Doctrine of Eclips

Suggested Reading :

1. G.P. Singh, Principles of Statutory Interpretation, Wadhwa, Nagpur.
2. P. St. Langan (Ed), Maxwell on The Interpretation of Statutes, N.M. Tripathi, Bombay.
3. K. Shanmukham, N.S. Binclras' Interpretation of Statutes, The Law Book Co. Allahabad. V. Sarathi, Interpretation of Statutes, Eastern, Lucknow. M.P. Jam, Constitutional Law of India, Wadhawa & Co M.P. Singh (Ed), V.N. Shukla's Constitution of India, Eastern, Lucknow. U. Baxi, Introduction to Justice K.K. Mathew's Democracy Equality and Freedom Eastern, Lucknow.