



Mimamsa Principles of Interpretation : A Legal Hermeneutics

The process of interpretation seems to be very easy but in reality the process is very tricky. It is very difficult to ascertain the true meaning of legislature sometimes and a person who knows how to play with words can make a simple sentence so complex that a doubt may arise as to the validity of statute. For a proper and healthy application of law, it is important to have uniform expansion of language or words used by the authorities /law makers. In a case, if one judge takes a narrow view, and the other the broader one, the law will connote different things for different persons and soon there will be a race for window shopping for justice.

KESHAV JHA

Introduction :

“Interpretation” is a general competence possessed by all of us.

The manner in which we use language and interpret it, is extremely complex and is related with who we are and how we deal with conflicting situations and paradigms and make choices as human beings.

Understanding and meaning do not come simply by holding up a word or sentence and saying, yes it means this. No one person or institution can claim the oracle of interpretation. And interpretation is something we do all the time, a skill we acquire in our use of language as human beings.

The endeavour of this article is to examine whether an indigenous alternative can be posited for the principles of construction of statutes symbolized by the “Maxwellian system”.

One such alternative, credible and viable system is “Mimamsa” principles of interpretation crafted by our forefathers over millennia.

Historical Background :

Mimamsa {Origin :(Sanskrit) : “Reflection” or “Critical Investigation”} is one of the six systems (darshans) of Indian philosophy.

Mimamsa, probably the earliest of the six, is fundamental to Vedanta, another of the six systems, and has deeply influenced the formulation of Hindu law.

The aim of Mimamsa is to give rules for the interpretation of the Vedas, the earliest scriptures of Hinduism, and to provide a philosophical justification for the observance of Vedic ritual. Because Mimamsa is concerned

with the earlier parts of the Vedas (called the Karmakanda), it is also referred to as Purva-Mimamsa (“Prior Study”) or Karma-Mimamsa (“Study of Actions”).

Vedanta, which deals with the later portion of Vedic literature called the Upanishads, is called Uttara-Mimamsa (“Posterior Study”) or Jnana-Mimamsa (“Study of Knowledge”).

The earliest work of the system is the Mimamsa-sutra of Jaimini (c. 4th century BCE). A major commentary was written by Shabarasvamin (1st century BCE), who was followed by a long line of interpreters and teachers, most notably Kumarila and Prabhakara (7th8th century CE).

Six axioms of interpretation have been developed for the interpretation of “shastras” in “Mimamsa”.

They are :

(1) The Sarthakyata axiom, which means that every word and sentence must have some meaning.

(2) The Laghava axiom (Gauravah doshah), which states that that construction which makes the meaning simpler and shorter is to be preferred.

(3) The Arthaikatva axiom, which states that a double meaning should not be attached to a word or sentence occurring at one and the same place. Such a double meaning is known as a Vakyabheda, and is a fault (dosh).

(4) The Gunapradhan axiom, which states that if a word or sentence purporting to express a subordinate idea clashes with the principal idea the former must be adjusted to the latter, or must be disregarded altogether.

(5) The Samanjasya axiom which states that all attempts should be made at reconciliation of apparently conflicting texts.

Assistant Professor (Department of Law), Amity University Rajasthan, NH-11-C, Kant Kalwar, Jaipur (Rajasthan)

Jimutvahana has applied this principle for reconciling conflicting texts of Manu and Yajnavalkya on the right of succession.

(6) The Vikalpa axiom, which states that if there is a real and irreconcilable contradiction between two legal rules having equal force, the rule more in accordance with equity and usage should be adopted at one's option.

Thus where one of the rules is a higher legal norm as compared to the other, e.g. a Shruti in relation to Smriti, by the Badha principle the former prevails.

It may be mentioned here that the Mimansaks made every effort to reconcile conflicts, and held that Vikalpa was to be resorted to only if all other means of reconciliation failed, for Vikalpa had eight faults (dosh).

Four well known general principles of interpretation in Mimamsa, viz.:

(1) the Shruti Principle, or the literal rule.

This is illustrated by the well known Garhapatya maxim.

There is the Vedic verse "Aindra garhapatyam Upatishthate" (with the Indra verse one should worship Garhapatya). Now this Vidhi can have several meanings e.g. (1) One should worship Garhapatya (the household fire) with a verse addressed to Indra, (2) One should worship both Indra as well as Garhapatya, (3) One should worship either of the two. The correct interpretation, according to the Shruti principle, is the first interpretation.

(2) the Linga principle (also called Lakshana artha) or the suggestive power of words or expressions.

This principle can be illustrated by the decision of the Supreme Court in U.P. Bhoodan Yagna Samiti v. Brij Kishore {(1988 AIR 2239, 1988 SCR Supl.(2)859} where the words "landless person" were held to refer to landless peasants only and not to landless businessmen.

(3) the Vakya Principle, or syntactical arrangement, and

(4) Prakarana, which permits construction by referring to some other text in order to make the meaning clear.

We see therefore that the literal rule will sometimes lead to absurdity and totally efface the intention of the law. In fact, as Lord Denning has pointed out, the modern method of interpretation is to seek the intention rather than to follow the literal rule. This is signified in the decision of the Supreme Court of India in Charan Lal Sahu v. Union of India {1990 AIR 1480, 1989 SCR. Supl(2) 597}. The Mimansaks were great intention seekers, and the Linga, Vakya and Prakarana principles all aim at finding the intention of the law.

The Vakya principle (mentioned above) include adyahara and anusanga (supplying of missing words and expressions), upakarsha and apakarsha (transference of clauses up or down in the sentence), etc.

To give an illustration of the anusanga principle (elliptical extension) it is interesting to see how Jimutvahana interpreted the text of Manu which states "Of a woman married according to the Brahma, Daiva, Arsha, Gandharva and Prajapatya form, the property shall go to her husband, if she

dies without issue. But her wealth, given to her on her marriage in the form called Asura, Rakshas and Paisacha, on her death without issue shall become the property of her parents". Jimutvahana employing the anusanga principle interpreted this text to the effect that the words "wealth given to her on her marriage" should also be inserted in the first sentence after the words "the property".

The difference between the Linga principle and the Vakya principle may also be noticed. In the former no violence is done to the wording of the text, but the words or expressions are construed differently from the literal sense, and hence Linga is really construction by context. In Vakya, however, some violence is done to the text e.g., by connecting two separate sentences, or by adding words or expressions, or by transferring words or expressions up or down a sentence. This violence may sometimes become necessary to save the text from becoming meaningless or absurd, just as the surgeon may have to do violence to the body (by operation) to save the patient's life.

The Anusanga principle of Mimamsa was used by Jimutvahana in the "Dayabhaga." Jimutvahana found that there is a text of Manu which states "of a woman married according to the Brahma, Daiva, Arsha, Gandharva and Prajapatya form, the property shall go to her husband if she dies without issue.

But her property, given to her on her marriage in the form called Asura, Rakshasa and Paisacha, on her death without issue shall become the property of her parents.

It can be seen that in the second sentence the word "property" is qualified by the words-"given to her on her marriage", whereas in the first sentence there is no such qualification.

Jimutvahana using the "anusanga" principle of "mimamsa" said that the words "given to her on her marriage" should also be inserted in the first sentence after the word "property" and hence there also the word "property" must be interpreted in a qualified sense.

In the Mitakshara also the "anusanga" principle of "mimamsa" has been used.

The basic tenet of the "mimansakas" is that the commands expressed in the "Vedas" (shruti vakya) are self validating source of knowledge (pramana).

However they distinguish between injunctory and non-injunctory statements in "shruti".

Together, these texts develop and apply the rules of language analysis (such as rules of contradiction), asserting that one must not only examine injunctive propositions in any scripture, but also examine the alternate related or reverse propositions for better understanding.

Conclusion :

The process of interpretation seems to be very easy but in reality the process is very tricky.

It is very difficult to ascertain the true meaning of legislature sometimes and a person who knows how to play with words can make a simple sentence so complex that a

doubt may arise as to the validity of statute.

For a proper and healthy application of law, it is important to have uniform expansion of language or words used by the authorities /law makers.

In a case, if one judge takes a narrow view, and the other the broader one, the law will connote different things for different persons and soon there will be a race for window shopping for justice.

Articulating the law is not equal to executing the law.

For the purpose of execution proper understanding of law is utmost important and a better understanding is only possible through a proper interpretation of statute.

We had developed from very early times a scientific system of interpretation known as "mimamsa" principles which were followed by our jurists like Vijnaneshwara (author of Mitakshara), Jimutvahana(author of Dayabhaga),Nanda Pandit (author of Dattak Mimamsa) etc.

Whenever there was any conflict between smritis or ambiguity in the shruti or smriti, the "mimamsa" principles were applied.

Most of these principles are rational and scientific and in some respects far more advanced and sophisticated to their western counterparts.

Therefore there is no reason why the principles of "mimamsa" should not be applied to supplant and supplement the canons of construction presently adopted by Indian courts.

References :

(1) P. St. J. Langan (1969) : *Maxwell on the Interpretation of Statutes* (12th ed.).

(2) Vepa P. Sarathi (2003) : *Interpretation of Statutes* (4th ed.).

(3) Singh, G.P. (2008) : *Principles of Statutory Interpretation* (11th ed.).

(4) S.G.G. Edgar (1999) : *Craies on Statute Law*.

(5) Sharma, Chandrarhar (2003) : *A critical survey of Indian philosophy* (Delhi:Motilal Banarsidas).

(6) Mueller Max (1899) : *Six systems of Indian philosophy; Samkhya and Yoga, Nyaya and Vaisesika* : Sushil Gupta (India) Ltd.

(7) Shastri, R.A.Ramaswami (1936) : *A short history of Poorva Mimamsa Shastra*. Annamalai university.

(8) K.L.Sarkar's, *Mimamsa Rules of Interpretation - Tagore Law Lectures : Tagore Law Lectures 1905*(edited by :Justice M.Katju).



UGC -

APPROVED - JOURNAL

UGC Journal Details

Name of the Journal : Research Link

ISSN Number : 09731628

e-ISSN Number :

Source: UNIV

Subject: Accounting;Anthropology;Business and International Management;Economics, Econometrics and Finance(all);Education;Environmental Science(all);Finance;Geography, Planning and Development;Law;Political Science a;Social Sciences(all)

Publisher: Research Link

Country of Publication: India

Broad Subject Category: Arts & Humanities;Multidisciplinary;Social Science

Print

शोध-पत्र भेजने संबंधी नियम

(1) शोध-पत्र 1500-1700 शब्दों से अधिक नहीं होना चाहिए।

(2) हिन्दी एवं मराठी माध्यम के शोधपत्रों को कृतिदेव 10 (Kruti Dev 010) में टाईप करवाकर 'पेजमेकर 6.5' में भेजें।

(3) पंजाबी माध्यम के शोधपत्रों को अनमोल लिपि (AnmolLipi) या अमृत बोली (Amritboli) या जॉय (Joy) में टाईप करवाकर 'पेजमेकर 6.5' में भेजें।

(4) अंग्रेजी माध्यम के शोधपत्र टाईम्स न्यू रोमन (Times New Roman), एरियल फॉन्ट (Arial) में टाईप करवाकर 'पेजमेकर 6.5' या 'माइक्रोसाफ्ट वर्ड' में भेजे जा सकते हैं।

(4) शोधपत्र की विधि - (1) शीर्षक (2) एबस्ट्रेक्ट (3) की-वर्ड्स (5) प्रस्तावना/प्रवेश (5) उद्देश्य (6) शोध परिकल्पना (7) शोध प्रविधि एवं क्षेत्र (8) सांख्यिकीय तकनीक (9) विवेचन या विश्लेषण (10) सुझाव (11) निष्कर्ष एवं (12) संदर्भ ग्रंथ सूची।

(6) संदर्भ ग्रंथ सूची इस प्रकार दें -

For Books :

(1) Name of Writer, "Name of Book", Publication, Place of Publication, Year of Publication, Page Number/numbers.

For Journals :

(2) Name of Writer, "Title of Article", Name of Journal, Volume, Issue, Page Numbers.

Web references :

<http://utc.iath.virginia.edu/interpret/exhibits/hill/hill.html>

(7) गुजराती माध्यम के शोधपत्र हरेकृष्णा (Harekrishna), टेराफॉन्ट वरुण (Terafont Varun), टेराफॉन्ट आकाश (Terafont Aaksah) में टाईप करवाकर 'पेजमेकर 6.5' में भेजे जा सकते हैं।

(8) शोधपत्र की साफ्टकॉपी रिसर्च लिंक के ई-मेल आईडी researchlink@yahoo.co.in पर भेजने के बाद हॉर्डकॉपी, शोधपत्र के मौलिक होने के घोषणा पत्र के साथ हस्ताक्षर कर 'रिसर्च लिंक' के कार्यालय को प्रेषित करें।

