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FACULTY OF JURIDICAL SCIENCES

Course : LL.B. Ist Semester

SUBJECT: Jurisprudence

SUBJECT CODE: LLB 301

LECTURE: 39

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Lecture-39

Rule of Interpretations

To ensure that justice is made available to all, the judicial system has been evolved in all nations. It is extremely important and infact necessary also that the Courts interpret the law in such a manner that ensures 'access to justice' to the maximum. For this purpose, the concept of 'Canons of Interpretation' has been expounded. The Canons are those rules that have been evolved by the Judiciary to help Courts determine the meaning and the intent of legislation.

SALMOND has defined it as "the process by which the Courts seek to ascertain the meaning of the Legislature through the medium of authoritative forms in which it is expressed."

A Statute is an edict of the Legislature and it must be construed "to the intent of them who make it" and "duty of the judicature is to act upon the true intention of the Legislature- the mens or sententia legis."

Need For Interpretation
In his The Law-Making Process, Michael Zander gives three reasons why statutory interpretation is necessary:

1. Complexity of statutes in regards to the nature of the subject, numerous draftsmen and the blend of legal and technical language can result in incoherence, vague and ambiguous language.

2. Anticipation of future events leads to the use of indeterminate terms. The impossible task of anticipating every possible scenario also leads to the use of indeterminate language. Judges therefore have to interpret statutes because of the gaps in law. Examples of inderterminate language include words such as "reasonable". In this case the courts are responsible for determining what constitutes the word "reasonable".

3. The multifaceted nature of language. Language, words and phrases are an imprecise form of communication. Words can have multiple definitions and meanings. Each party in court will utilize the definition and meaning of the language most advantageous to their particular need. It is up to the courts to decide the most correct use of the language employed.

General Rules of Interpretation, Internal Aids to Interpretation, External Aids to Interpretation, Literal Rule, Golden Rule, Mischief Rule, Subsidiary Rules and Harmonious Construction are some of the most important rules.

Conjunctive And Disjunctive Words

Prima Facie it may seem that interpretation of the words "and" and "or" need not been considered essential, are be subsidiary and do not need much attention. However, several times, it is just through the interpretation of the words "and" and "or" that the whole meaning of the Statute has been changed and the Judicature has evolved a new principle altogether which was never expected.

The aim of this article is to lay light on the importance and the need for correct interpretation of the words "and" and "or", as an aid to interpretation to ensure that effect is given to the true intent of the Legislature.

The word "or" is normally disjunctive and "and" is normally conjunctive but at times they are read as vice versa to effectuate the manifest intent of the legislature as disclosed from the context. As stated by SCRUTTON L.J, 'You do sometimes read "or" as "and" in a statute. But you do not do it unless you are obliged because "or" does not generally mean "and" and "and" does not generally mean "or".

However, the rule is that "or" is normally disjunctive and "and" is normally conjunctive and a departure from the same is not available unless the very aim and purpose of the Statute so requires. The rationale being that if the Legislature wishes to use "and" in a particular statutory provision, then it has every right to do and nothing prevents them for doing so. So if the word "and" has not been used and instead the word "or" has been used, it is obvious that the Legislature has purposively used the word "or". Unless, it is not proved, that there was some reason or difficulty that prevented the Legislature from using the "and", literal interpretation has to be applied to the statutory provision and the rule - "or" is normally disjunctive and "and" is normally conjunctive has to be given effect to.

In my opinion, this rule is an extension of the "Purposive Interpretation Rule." Purposive theory is a theory of statutory interpretation that holds that Courts should interpret legislation in light of the purpose behind the legislation. According to this theory Courts are not want to bound by the text. It is a pragmatic approach or rather a functional aspect of interpreting law, wherein deviation from literal rule is permitted for the larger interest of the society.

A Judge must be a jurist endowed with the legislator's wisdom, historian's search for truth, prophet's vision, capacity to respond to the needs of the present, resilience to cope with the demands of the future and to decide objectively disengaging himself/herself from every personal influence or predilections. Therefore, the judges should adopt purposive interpretation of the dynamic concepts of the Constitution and the Act with its interpretative armoury to articulate the felt necessities of the time.

I strongly feel that the rule which permits deviation from the usual and ordinary interpretation of

the words “and” and “or”, is an extension of the Purposive Theory wherein Courts have conferred upon themselves the power to extend the meaning of the “and” and “or” and give them a meaning and interpretation, which though not directly stated by the Legislature, yet, aims at achieving the real purpose of Legislature.

Judicial Precedents

In Manmohan Das Shah v. Bishun Das, the Supreme Court held that-

"The ordinary rule of construction is that a provision of a Statute must be construed in accordance with the language used therein unless there are compelling reasons. Such as, where a literal construction would reduce the provision to absurdity or prevent the manifest intention of the legislature from being carried out. There is no reason why the word "or" should be construed otherwise than in its ordinary meaning. If the construction suggested by Mr. Desai were to be accepted and the word "or" were to be construed as meaning "and", it would mean that the construction should not only be such as materially alters the accommodation but is also such that it would substantially diminish its value. .....”

In Kamta Prasad Aggarwal v. Executive Engineer, Ballabhgarh, the Apex Court held that "depending upon the context, "or" may be read as "and" but the Court would not do it unless it is so obliged because "or" does not generally mean "and" and "and" does not generally mean "or".

Furthermore, again in Hyderabad Asbestos Cement Products v. Union of India, the Court restated the rule for interpretation of the words ‘and’ and ‘or’ and held as that -

"The language of the rule is plain and simple. It does not admit of any doubt in interpretation. Provisos 1(i) and 2(i) are separated by the use of conjunction "and". They have to be read conjointly. The requirement of both the provisos has to be satisfied to avail the benefit."

Following are examples of few cases when the rule of interpreting the word “or” as normally disjunctive and “and” as normally conjunctive has been forgone by the Judges to prevent injustice or to give effect to the real purpose of the Statute-

To prevent use of arbitrary powers

The words ‘owner or master’ as they occur in Section 1(2) of the Oil in Navigation Waters Act, 1955 were construed by the House of Lords to mean ‘owner and master’ making both of them guilty of the offence under that Section as reading of “or” as “or” would have produced as absurd result of leaving it to the Executive to select either the owner or master for being prosecuted without the Act giving any guidance. Such a result would have been against constitutional practice.

To ensure fulfillment of duties

The expression 'established or incorporated' used in University Grants Commission Act was read as 'established and incorporated' having regard to the constitutional scheme and in order to ensure that the Act is able to achieve its objectives and the University Grants Commission is able to perform its duties and responsibilities.

Negative and Positive Condition

A distinction may be made between positive and negative condition prescribed by a Statute for acquiring a right or benefit. Positive conditions separated by "or" are read in the alternative but negative conditions connected by "or" are construed as cumulative and "or" is read as "nor" or "and".

Prevention of Crime

In section 7 of the Official Secrets Act, 1920, which reads 'Any person who attempts to commit any offence under the principal Act or this Act, or solicits or incites or endeavors to persuade another person to commit an offence, or aids or abets and does any act preparatory to the commission of an offence', the word "and" printed in Italics was read as "or" for by reading "and" as "and" the result produced was unintelligible and absurd and against the clear intention of the Legislature. Thus even a person who does an act preparatory to the commission of an offence is equally liable.

Welfare of the Public

Section 3(b)(i) of the Drugs Act, 1940, (before its amentndment in 1962) defined drug as follow: 'All medicines for internal or external use of human beings or animals and all substances intended to be used for in the diagnosis, treatment, mitigation or prevention of disease in human beings or animals other than medicine and substances exclusively used or prepared for use in accordance with the Ayurvedic or Unani systems of medicine'. The Italicized, word "and" in this definition was read disjunctively as the context showed word "or" and "and" reveals the clear intention of the Legislature.

Speedy Justice

In a case where the Government has been given special powers to create special courts, the words should be construed in such a manner, which ensures that effect is given to the reason for which power has been conferred on the Government. Example- Section 3 of the Prevention of Corruption Act, 1988 empowers the Government to appoint as many special judges as many judges as may be necessary for such area or for such case or group of cases, as may be specified in the notification. Construing "or" it was held that it would mean that the Government has the power to do either or both the things, i.e., the Government may, even for an area for which a special judge has been appointed, appoint a special judge for a case or group of cases. The case illustrates that the alternatives joined by "or" need not always be mutually exclusive.

Scheme of the Act

For the provisions that deal with appointment of the Manager under Mines Act, 1952,word "and" in Section 3(1)(b) is to be read disjunctively and not as being conjunctive. Having regard to legislative intent manifested by the scheme of the Act, word "and" to be construed as "or" and read disjunctively and not as being conjunctive.

Factual Background

The world "or" and the word "and" used in rules, laws or bye-laws have specific intention as proposed by its maker and the meaning of "or" and the word "and" shall depend on the factual background under which such conjunction was used.

ut res magis valeat quam pereaf

Maxwell on Interpretation of Statutes under the head 'ut res magis valeat quam pereaf' states that-

'If the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation, we should avoid a construction which would reduce the legislation to futility and should rather accept the bolder construction based on the view that Parliament would legislate only for the purpose of bringing about an effective result.' 'Where alternative constructions are equally open, that alternative is to be chosen which will be consistent with the smooth working of the system which the statute purports to be regulating; and that alternative is to be rejected which will introduce uncertainty, friction or confusion into the working of the system".

I believe that it is just not important to make the statutory provisions operative and workable, but is equally essential to make them operative in a just and reasonable manner. To give effect to this maxim, a construction of "and" and "or" is to be applied which will be consistent with the smooth working of the provisions.

Construction meaning

In simple words, construction is the process of drawing conclusions of the subjects which are beyond the direct expression of the text. The courts draw findings after analysing the meaning of the words used in the text or the statutes. This process is known as **legal exposition.** There are a certain set of facts pending before the court and construction is the application of the conclusion of these facts.

The objective is to assist the judicial body in determining the real intention of the legislature. Its aim is also to ascertain the legal effect of the legal text.

Difference between Interpretation and Construction

Interpretation	Construction
1. In law, interpretation refers to exposing the true sense of the provisions of the statutes and to understand the exact meaning of the words used in any text. 2. Interpretation refers to the linguistic meaning of the legal text. 3. In the case where the simple meaning of the text is to be adopted then the concept of interpretation is being referred to.	1. Construction, on the other hand, refers to drawing conclusions from the written texts which are beyond the outright expression of the legal text. 2. The purpose of construction is to determine the legal effect of words and the written text of the statute. 3. In the case where the literal meaning of the legal text results in ambiguity then the concept of construction is adopted.

Classification of Statutes

Codified statutory law can be categorized as follows-

Codifying statutes

The purpose of this kind of statute is to give an authoritative statement of the rules of the law on a particular subject, which is customary laws. **For example- The Hindu Marriage Act, 1955 and The Hindu Succession Act, 1956.**

Consolidating statutes

This kind of statute covers and combines all law on a particular subject at one place which was scattered and lying at different places. Here, the entire law is constituted in one place. **For example- Indian Penal Code or Code of Criminal Procedure.**

Declaratory statutes

This kind of statute does an act of removing doubts, clarifying and improving the law based on the interpretation given by the court, which might not be suitable from the point of view of the parliament. **For example-** the definition of house property has been amended under the Income Tax (Amendment) Act, 1985 through the judgement of the supreme court.

Remedial statutes

Granting of new remedies for enforcing one's rights can be done through the remedial statutes. The purpose of these kinds of statutes is to promote the general welfare for bringing social reforms through the system. These statutes have liberal interpretation and thus, are not interpreted through strict means. **For example- The Maternity Benefits Act, 1961, The Workmen's Compensation Act, 1923 etc.**

Enabling statutes

The purpose of this statute is to enlarge a particular common law. **For example-** Land Acquisition Act enables the government to acquire the public property for the purpose of the public, which is otherwise not permissible.

Disabling statutes

It is the opposite of what is provided under the enabling statute. Here the rights conferred by common law are being cut down and are being restrained.

Penal statutes

The offences for various types of offences are provided through these statutes, and these provisions have to be imposed strictly. **For example- Indian Penal Code, 1860.**

Taxing statutes

Tax is a form of revenue which is to be paid to the government. It can either be on income that an individual earns or on any other transaction. A taxing statute thus, levies taxes on all such transactions. There can be income tax, wealth tax, sales tax, gift tax, etc. Therefore, a tax can be levied only when it has been specifically expressed and provided by any statute.

Explanatory statutes

The term explanatory itself indicates that this type of statute explains the law and rectifies any omission left earlier in the enactment of the statutes. Further, ambiguities in the text are also clarified and checked upon the previous statutes.

Amending statutes

The statutes which operate to make changes in the provisions of the enactment to change the original law for making an improvement therein and for carrying out the provisions effectively for which the original law was passed are referred to as amending statutes. **For example-** Code of Criminal Procedure 1973 amended the code of 1898.

Repealing statutes

A repealing statute is one which terminates an earlier statute and may be done in the express or explicit language of the statute. **For example-** Competition Act, 2002 repealed the MRTP Act.

Curative or repealing statutes

Through these statutes, certain acts which would otherwise be illegal are validated by curing the illegality and enables a particular line of action.

Rules of Interpretation

Literal or Grammatical Rule

It is the first rule of interpretation. According to this rule, the words used in this text are to be given or interpreted in their natural or ordinary meaning. After the interpretation, if the meaning is completely clear and unambiguous then the effect shall be given to a provision of a statute regardless of what may be the consequences.

The basic rule is that whatever the intention legislature had while making any provision it has been expressed through words and thus, are to be interpreted according to the rules of grammar. It is the safest rule of interpretation of statutes because the intention of the legislature is deduced from the words and the language used.

According to this rule, the only duty of the court is to give effect if the language of the statute is plain and has no business to look into the consequences which might arise. The only obligation of the court is to expound the law as it is and if any harsh consequences arise then the remedy for it shall be sought and looked out by the legislature.

Case Laws

Maqbool Hussain v. State of Bombay, In this case, the appellant, a citizen of India after arriving at the airport did not declare that he was carrying gold with him. During his search was carried on, gold was found in his possession as it was against the notification of the government and was confiscated under **section 167(8) of *Sea Customs Act.***

Later on, he was also charged under ***section 8 of the Foreign Exchange Regulations Act, 1947.*** The appellant challenged this trial to be violative under **Article 20(2)** of the Indian Constitution. According to this article, no person shall be punished or prosecuted more than once for the same offence. This is considered as double jeopardy.

It was held by the court that the Seas Act neither a court nor any judicial tribunal. Thus, accordingly, he was not prosecuted earlier. Hence, his trial was held to be valid.

Manmohan Das versus Bishan Das, AIR 1967 SC 643

The issue in the case was regarding the interpretation of section 3(1)(c) of U.P Control of Rent and Eviction Act, 1947. In this case, a tenant was liable for evidence if he has made addition and alternate in the building without proper authority and unauthorized perception as materially altered the accommodation or is likely to diminish its value. The appellant stated that only the constitution can be covered, which diminishes the value of the property and the word 'or' should be read as land.

It was held that as per the rule of literal interpretation, the word 'or' should be given the meaning that a prudent man understands the grounds of the event are alternative and not combined.

State of Kerala v. Mathai Verghese and others, 1987 AIR 33 SCR(1) 317, in this case a person was caught along with the counterfeit currency "dollars" and he was charged under section 120B, 498A, 498C and 420 read with **section 511 and 34 of Indian Penal Code** for possessing counterfeit currency. The accused contended before the court that a charge under section 498A and 498B of Indian Penal Code can only be levied in the case of counterfeiting of Indian currency notes and not in the case of counterfeiting of foreign currency notes. The court held that the word currency notes or bank note cannot be prefixed. The person was held liable to be charge-sheeted.

The Mischief Rule

Mischief Rule was originated in ***Heydon's case*** in 1584. It is the rule of purposive construction because the purpose of this statute is most important while applying this rule. It is known as Heydon's rule because it was given by Lord Poke in Heydon's case in 1584. It is called as mischief rule because the focus is on curing the mischief.

In the Heydon's case, it was held that there are four things which have to be followed for true and sure interpretation of all the statutes in general, which are as follows-

1. What was the common law before the making of an act.
2. What was the mischief for which the present statute was enacted.
3. What remedy did the Parliament sought or had resolved and appointed to cure the disease of the commonwealth.
4. The true reason of the remedy.

The purpose of this rule is to suppress the mischief and advance the remedy.

Case laws

Smith v. Huges, ***1960 WLR 830,*** in this case around the 1960s, the prostitutes were soliciting in the streets of London and it was creating a huge problem in London. This was causing a great problem in maintaining law and order. To prevent this problem, Street Offences Act, 1959 was

enacted. After the enactment of this act, the prostitutes started soliciting from windows and balconies.

Further, the prostitutes who were carrying on to solicit from the streets and balconies were charged under ***section 1(1)*** of the said Act. But the prostitutes pleaded that they were not solicited from the streets.

The court held that although they were not soliciting from the streets yet the **mischief rule** must be applied to prevent the soliciting by prostitutes and shall look into this issue. Thus, by applying this rule, the court held that the windows and balconies were taken to be an extension of the word street and charge sheet was held to be correct.

Pyare Lal v. Ram Chandra, the accused in this case, was prosecuted for selling the sweeten supari which was sweetened with the help of an artificial sweetener. He was prosecuted under the Food Adulteration Act. It was contended by Pyare Lal that supari is not a food item. The court held that the dictionary meaning is not always the correct meaning, thereby, the mischief rule must be applicable, and the interpretation which advances the remedy shall be taken into consideration. Therefore, the court held that the word 'food' is consumable by mouth and orally. Thus, his prosecution was held to be valid.

Kanwar Singh v. Delhi Administration, AIR 1965 SC 871.

Issues of the case were as follows- **section 418 of Delhi Corporation Act,** 1902 authorised the corporation to round up the cattle grazing on the government land. The MCD rounded up the cattle belonging to Kanwar Singh. The words used in the statute authorised the corporation to round up the abandoned cattle. It was contended by Kanwar Singh that the word abandoned means the loss of ownership and those cattle which were round up belonged to him and hence, was not abandoned. The court held that the mischief rule had to be applied and the word abandoned must be interpreted to mean **let loose or left unattended** and even the **temporary loss of ownership** would be covered as abandoned.

Regional Provident Fund Commissioner v. Sri Krishna Manufacturing Company, AIR 1962 SC *1526,* Issue, in this Case, was that the respondent concerned was running a factory where four units were for manufacturing. Out of these four units one was for paddy mill, other three consisted of flour mill, saw mill and copper sheet units. The number of employees there were more than 50. The RPFC applied the provisions of Employees Provident Fund Act, 1952 thereby directing the factory to give the benefits to the employees.

The person concerned segregated the entire factory into four separate units wherein the number of employees had fallen below 50, and he argued that the provisions were not applicable to him because the number is more than 50 in each unit. It was held by the court that the mischief rule has to be applied and all the four units must be taken to be one industry, and therefore, the applicability of PFA was upheld.

The Golden Rule

It is known as the golden rule because it solves all the problems of interpretation. The rule says that to start with we shall go by the literal rule, however, if the interpretation given through the literal rule leads to some or any kind of ambiguity, injustice, inconvenience, hardship, inequity, then in all such events the literal meaning shall be discarded and interpretation shall be done in such a manner that the purpose of the legislation is fulfilled.

The literal rule follows the concept of interpreting the natural meaning of the words used in the statute. But if interpreting natural meaning leads to any sought of repugnance, absurdity or hardship, then the court must modify the meaning to the extent of injustice or absurdity caused and no further to prevent the consequence.

This rule suggests that the consequences and effects of interpretation deserve a lot more important because they are the clues of the true meaning of the words used by the legislature and its intention. At times, while applying this rule, the interpretation done may entirely be opposite of the literal rule, but it shall be justified because of the golden rule. The presumption here is that the legislature does not intend certain objects. Thus, any such interpretation which leads to unintended objects shall be rejected.

Case laws

Tirath Singh v. Bachittar Singh, AIR 1955 SC 850

In this case, there was an issue with regard to issuing of the notice under **section 99 of Representation of People's Act, 1951**, with regard to corrupt practices involved in the election.

According to the rule, the notice shall be issued to all those persons who are a party to the election petition and at the same time to those who are not a party to it. Tirath Singh contended that no such notice was issued to him under the said provision. The notices were only issued to those who were non-parties to the election petition. This was challenged to be invalid on this particular ground.

The court held that what is contemplated is giving of the information and the information even if it is given twice remains the same. The party to the petition is already having the notice regarding the petition, therefore, section 99 shall be so interpreted by applying the golden rule that notice is required against non-parties only.

State of Madhya Pradesh v. Azad Bharat Financial Company, AIR 1967 SC 276, Issues of the case are as follows.

A transporting company was carrying a parcel of apples was challenged and charge-sheeted. The truck of the transporting company was impounded as the parcel contained opium along with the apples. At the same time, the invoice shown for the transport consisted of apples only.

Section 11 of the opium act 1878, all the vehicles which transport the contraband articles shall be impounded and articles shall be confiscated. It was confiscated by the transport company that they were unaware of the fact that opium was loaded along with the apples in the truck.

The court held that although the words contained in **section 11** of the said act provided that the vehicle shall be confiscated but by applying the literal rule of interpretation for this provision it is leading to injustice and inequity and therefore, this interpretation shall be avoided. The words '**shall be confiscated**' should be interpreted as '**may be confiscated**'.

State of Punjab v. Quiser Jehan Begum, ***AIR 1963 SC 1604,*** a period of limitation was prescribed for, under section 18 of land acquisition act, 1844, that an appeal shall be filed for the announcement of the award within 6 months of the announcement of the compensation. Award was passed in the name of Quiser Jehan. It was intimated to her after the period of six months about this by her counsel. The appeal was filed beyond the period of six months. The appeal was rejected by the lower courts.

It was held by the court that the period of six months shall be counted from the time when Quiser Jehan had the knowledge because the interpretation was leading to absurdity. The court by applying the golden rule allowed the appeal.

Harmonious Construction

According to this **rule of interpretation,** when two or more provisions of the same statute are repugnant to each other, then in such a situation the court, if possible, will try to construe the provisions in such a manner as to give effect to both the provisions by maintaining harmony between the two. The question that the two provisions of the same statute are overlapping or mutually exclusive may be difficult to determine.

The legislature clarifies its intention through the words used in the provision of the statute. So, here the basic principle of harmonious construction is that the legislature could not have tried to contradict itself. In the cases of interpretation of the Constitution, the rule of harmonious construction is applied many times.

It can be assumed that if the legislature has intended to give something by one, it would not intend to take it away with the other hand as both the provisions have been framed by the legislature and absorbed the equal force of law. One provision of the same act cannot make the other provision useless. Thus, in no circumstances, the legislature can be expected to contradict itself.

Cases –

Ishwari Khaitan Sugar Mills v. State of Uttar Pradesh, in this case, the State Government proposed to acquire sugar industries under U.P Sugar Undertakings (Acquisition) Act, 1971. This was challenged on the ground that these sugar industries were declared to be a controlled

one by the union under ***Industries (Development and Regulation) Act, 1951.*** And accordingly, the state did not have the power of acquisition of requisition of property which was under the control of the union. The Supreme Court held that the power of acquisition was not occupied by ***Industries (Development and Regulation) Act, 1951. The state had a separate power under Entry 42 List III.***

M.S.M Sharma v. Krishna Sinha, AIR 1959 SC 395.

Facts of the case are as follows- ***Article 19(1)(a)*** of the Constitution provides for freedom of speech and expression. ***Article 194(3)*** provides to the Parliament for punishing for its contempt and it is known as the Parliamentary Privilege. In this case, an editor of a newspaper published the word -for- word record of the proceedings of the Parliament including those portions which were expunged from the record. He was called for the breach of parliamentary privilege.

He contended that he had a fundamental right to speech and expression. It was held by the court that **article 19(1)(a)** itself talks about reasonable freedom and therefore freedom of speech and expression shall pertain only to those portions which have not been expunged on the record but not beyond that.

Ejusdem generi

The meaning of 'Ejusdem Generis' is 'of the same kind'.

It is generally used in courts for deciding or classification of entities or bodies that come under a specific definition. The interpretation of statutes is the main applications of the ejusdem generic rule. It is generally used when ambiguity or confusion on the statutes arises. It has a major role in defining the state which is mentioned in the article 12 of the Indian Constitution. In the article 12 of the Indian Constitution, it is mentioned about the state legislature, parliament, and central government. A state comes under this term and other authorities in the article 12, there will be performing the functions similar to the functions of the legislature and government or sovereign functions.

The Supreme Court in Maharashtra University of Health and others v. Satchikitsa Prasarak Mandal & Others has examined and explained the meaning of '**Ejusdem Generis**' as a rule of interpretation of statutes in our legal system. While examining the doctrine, the Supreme Court held as under;

26. The Latin expression "**ejusdem generis**" which means "of the same kind or nature" is a principle of construction, meaning thereby when general words in a statutory text are flanked by restricted words, the meaning of the general words are taken to be restricted by implication with the meaning of restricted words. This is a principle which arises "from the linguistic implication

by which words having literally a wide meaning (when taken in isolation) are treated as reduced in scope by the verbal context." It may be regarded as an instance of ellipsis, or reliance on implication. This principle is presumed to apply unless there is some contrary indication (**Glanville Williams, 'The Origins and Logical Implications of the Ejusdem Generis Rule' 7 Conv (NS) 119**).

27. This ejusdem generis principle is a facet of the principle of Noscitur a sociis. The Latin maxim Noscitur a sociis contemplates that a statutory term is recognised by its associated words. The Latin word 'sociis' means 'society'. Therefore, when general words are juxtaposed with specific words, general words cannot be read in isolation. Their colour and their contents are to be derived from their context [See similar observations of Viscount Simonds in Attorney General v. Prince Ernest Augustus of Hanover, (1957) AC 436 at 461 of the report]

28. But like all other linguistic canons of construction, the ejusdem generis principle applies only when a contrary intention does not appear. In instant case, a contrary intention is clearly indicated inasmuch as the definition of 'teachers' under Section 2(35) of the said Act, as pointed out above, is in two parts. The first part deals with enumerated categories but the second part which begins by the expression "and other" envisages a different category of persons. Here 'and' is disjunctive. So, while construing such a definition the principle of ejusdem generis cannot be applied.

29. In this context, we should do well to remember the caution sounded by Lord Scarman in Quazi v. Quazi – [(1979) 3 All-England Reports 897]. At page 916 of the report, the learned Law Lord made this pertinent observation:- "If the legislative purpose of a statute is such that a statutory series should be read ejusdem generis, so be it; the rule is helpful. But, if it is not, the rule is more likely to defeat than to fulfil the purpose of the statute. The rule, like many other rules of statutory interpretation, is a useful servant but a bad master."

30. This Court while construing the principle of ejusdem generis laid down similar principles in the case of K.K. Kochuni v. State of Madras and Kerala, [AIR 1960 SC 1080]. A Constitution Bench of this Court in Kochuni (supra) speaking through Justice Subba Rao (as His Lordship then was) at paragraph 50 at page 1103 of the report opined:-
"...The rule is that when general words follow particular and specific words of the same nature, the general words must be confined to the things of the same kind as those specified. But it is clearly laid down by decided cases that the specific words must form a distinct genus or category. It is not an inviolable rule of law, but is only permissible inference in the absence of an indication to the contrary."

31. Again this Court in another Constitution Bench decision in the case of Amar Chandra Chakraborty v. The Collector of Excise, Govt. of Tripura, Agartala and others, AIR 1972 SC 1863, speaking through Justice Dua, reiterated the same principles in paragraph 9, at page 1868 of the report. On the principle of ejusdem generis, the learned Judge observed as follows:-
"…The ejusdem generis rule strives to reconcile the incompatibility between specific and general words. This doctrine applies when (i) the statute contains an enumeration of specific words; (ii) the subjects of the enumeration constitute a class or category; (iii) that class or category is not

exhausted by the enumeration; (iv) the general term follows the enumeration; and (v) there is no indication of a different legislative intent."

32. As noted above, in the instant case, there is a statutory indication to the contrary. Therefore, where there is statutory indication to the contrary the definition of teacher under Section 2(35) cannot be read on the basis of ejusdem generis nor can the definition be confined to only approved teachers. If that is done, then a substantial part of the definition under Section 2(35) would become redundant. That is against the very essence of the doctrine of ejusdem generis. The purpose of this doctrine is to reconcile any incompatibility between specific and general words so that all words in a Statute can be given effect and no word becomes superfluous (**See Sutherland: Statutory Construction, 5th Edition, page 189, Volume 2A**).

33. It is also one of the cardinal canons of construction that no Statute can be interpreted in such a way as to render a part of it otiose.

34. It is, therefore, clear where there is a different legislative intent, as in this case, the principle of ejusdem generis cannot be applied to make a part of the definition completely redundant.

35. By giving such a narrow and truncated interpretation of `teachers' under Section 2(35), High court has not only ignored a part of Section 2(35) but it has also unfortunately given an interpretation which is incompatible with the avowed purpose of Section 53 of the Act.

Noscitur a sociis

The principle of Noscitur a Sociis is a rule of construction. It is used by the court to interpret legislation. This means that the meaning of an unclear word or phrase must be determined by the words that surround it. In other terms, the meaning of a word must be judged by the company that it keeps. The questionable meaning of a doubtful word will be derived from its association with other words. It is used wherever a statutory provision constitutes a word or phrase that is capable of bearing more than one meaning.

This rule is explained in the Maxwell on the interpretation of statutes in the 12th edition in following words – When two or more words susceptible of analogous meaning are coupled together, they are understood to be used in their cognate sense. The words take their color from and are quantified by each other, the meaning of the general words being restricted to a sense analogous to that of the less general.

The principle of **Noscitur a Sociis** is a rule of construction. It is one of the rules of language used by court to interpret legislation. This means that, the meaning of an unclear word or phrase should be determined by the words immediately surrounding it. In other words, the meaning of a word is to be judged by the company it keeps. The questionable meaning of a doubtful word can be derived from its association with other words. It can be used wherever a statutory provision contains a word or phrase that is capable of bearing more than one meaning.

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Relying on the above, in the case of **Commissioner of Income Tax v. Bharti cellular** it was held that term 'technical servies' used in section 194J of the Income Tax Act is unclear. The word technical would take colour from the words managerial & consultancy between which it is sandwiched. These terms 'managerial services' & 'consultancy services' necessarily involve a human intervention . So applying **noscitur a sociis** the word 'technical' would also have to be construed as involving a human element. Thus, interconnection & port access services rendered by the assessee do not involve any human interface & therefore cannot be regarded as technical services u/s 194J of the Income Tax Act.

Coupling of word together shows that they are to be understood in the same sense and where the meaning of particular word is doubtful or obscure or where a particular expression when taken singly is inoperative, its intention is to be ascertained by looking at adjoining words or at expressions occurring at other parts of the same instrument.

If one could pick out a single word or phrase & finding it perfectly clear in itself, refuse to check its apparent meaning, in the light thrown upon it by the context or by other provisions then the principle of **noscitur a sociis** would be utterly meaningless. This principle requires that a word or phrase or even a whole provision which standing alone has a clear meaning , must be given quite a different meaning when viewed in the light of its context.

The apex court in Pradeep Agarbatti with reference to the Punjab Sales Tax Act held that the word, "perfumery'' means such articles as used in cosmetics and toilet goods viz, sprays, etc but does not include 'Dhoop' and 'Agarbatti'. This is because in Schedule 'A' Entry 16 of Punjab Sales Tax Act reads as "cosmetics, perfumery & toilet goods excluding toothpaste , tooth powder kumkum & soap."

Delhi Tribunal in the case of, **Parsons Brinckerhoff India (P.) Ltd. vs. Asstt. DIT (Int. Tax)** applying the rule of **Noscitur a Sociis** held that, the words 'model' and 'design' cannot fall under definition of 'royalty' under Explanation 2 to section 9 (I) (VI) of the Income Tax Act. They have to take colour from the other words surrounding them, such as, patent, invention, secret formula or process or trade mark, which are all species of intellectual property.

Noscitur a sociis cannot prevail in case where it is clear that the wider words have been deliberately used in order to make the scope of the defined word correspondingly wider. It can also be applied where the meaning of the words of wider meaning import is doubtful; but, where the object of the Legislature in using wider words is clear and free from ambiguity, the rule of construction cannot be applied.

Important Maxims related to Interpretation of statutes

1. Ejusdem Generis

According to the **Black's Law Dictionary (8th edition, 2004)** the principle of **Ejusdem Generis** is where general words follow an enumeration of persons or things, by words of a

particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned. It is a canon of statutory construction, where general words follow the enumeration of particular classes of things, the general words will be construed as applying only to things of the same general class as those enumerated.

The expression Ejusdem Generis means of the same kind. Normally, general words should be given their natural meaning like all other words unless the context requires otherwise. But when a general word follows specific words of a distinct category, the general word may be given a restricted meaning of the same category. **The general expression takes it's meaning from the preceding particular expressions because the legislature by using the particular words of a distinct genus has shown its intention to that effect.** This principle is limited in its application to general word following less general word only. If the specific words do not belong to a distinct. Genus, this rule is inapplicable. Consequently, if a general word follows only one particular word, that single particular word does not constitute a distinct genus and, therefore, Ejusdem Generis rule cannot be applied in such a case.

Exceptional stray instances are, however, available where one word genus has been created by the courts and the general word following such a genus given a restricted meaning. If the particular words exhaust the whole genus, the general word following these particular words is construed as embracing a larger genus. **The principle of Ejusdem Generis is not a universal application.** If the context of legislation rules out the applicability of this rule, it has no part to play in the interpretation of general words. The basis of the principle of Ejusdem Generis is that if the legislature intended general words to be used in unrestricted sense, it would not have bothered to use particular words at all.

2. Noscitur a Socis

The principle of Noscitur a Sociis is a rule of construction. It is one of the rules of language used by court to interpret legislation. This means that, **the meaning of an unclear word or phrase should be determined by the words immediately surrounding it. In other words, the meaning of a word is to be judged by the company it keeps.** The questionable meaning of a doubtful word can be derived from its association with other words. It can be used wherever a statutory provision contains a word or phrase that is capable of bearing more than one meaning. This rule is explained in Maxwell on the interpretation of statutes (12th edition) in following words " **When two or more words susceptible of analogous meaning are coupled together, they are understood to be used in their cognate sense**." The words take their colour from and are quantified by each other, the meaning of the general words being restricted to a sense analogous to that of the less general.

3. Ut Res Magis Valeat Quam Pereat:

The maxim "Ut Res Magis Valeat Quam Pereat" is a rule of construction which literally means the construction of a rule should give effect to the rule rather than destroying it .i.e., **when there are two constructions possible from a provision, of which one gives effect to the provision and the other renders the provision inoperative, the former which gives effect to the provision is adopted and the latter is discarded.** It generally starts with a presumption in favor of constitutionality and prefer a construction which embarks the statute within the competency of the legislature. But it is to be noted that when the presumption of constitution fails, then the statutes cannot be rendered valid or operative accordingly. The landmark case of **Indra Sawhney** (2000), where the Supreme Court struck down the state legislation as it was violative of constitution and ultra-vires of the legislative competency.

4. Contemporanea Exposito Est Fortissima In Lege

Meaning Contemporaneous exposition is the best and strongest in law. It is said that the best exposition of a statute or any other document is that which it has received from contemporary authority. This maxim has been confirmed by the Apex Court in **Desh Bandhu Gupta v. Delhi Stock Exchange Asson. Ltd. AIR 1979 SC 1049, 1054.** Contemporanea exposito is a guide to the interpretation of documents or statutes. It is one of the important external aids for interpretation. How ever great care must be taken in its application. When a document was executed between two parties, there intention can be known by their conduct at the time and after the execution of the instrument.

Where the words of the deed are ambiguous, the court may call in the acts done under it as a clue to the intention of the parties. Their acts are the result of usages and practices in the society. Therefore their acts are useful as an external aid to interpretation of the deed. This principle may also be applied in case of statutes. ***"Contemporanea expositio est optima et fortissinia in lege"* means usage or practice developed under a statute is indicative of the meaning ascribed to its words by contemporary opinion.** The maxim Contemporanea expositio as laid down by Lord Coke was applied to construing ancient statutes, but usually not applied to interpreting Acts or statutes which are comparatively modern.

The meaning publicly given by contemporary or long professional usage is presumed to be true one, even where the language has etymologically or popularly a different meaning. It is obvious that the language of a statute must be understood in the sense in which it was understood when it was passed, and those who lived at or near that time when it was passed may reasonably be supposed to be better acquainted than their descendants with the circumstances to which it had relation, as well as with the sense then attached to legislative expressions. Usages and practice developed under a statute is indicative of the meaning ascribed to its words by contemporary opinion and in case of an ancient statute, such reference to usage and practice is admissible.

He said a uniform notorious practice continued under an old statute and inaction of the legislature to amend the same are important factors to show that the practice so followed was based on correct understanding of the law. According to Lord Ellenborough, Communis opinio is evidence of what the law is. When the practice receives judicial or legislative approval it gains additional weight and is to be more respected.

5. Reddendo Singula Singulis

Reddendo singula singulis is a Latin term that means by referring each to each; referring each phrase or expression to its corresponding object. **In simple words "reddendo singula singulis" means that when a list of words has a modifying phase at the end, the phrase refers only to the last. It is a rule of construction used usually in distributing property.** Where there are general words of description, following a record of particular things, such general words are to be construed distributively, and if the general words will apply to some things and not to others, the general words are to be applied to those things to which they will, and not to those to which they will not apply; that is to say, each phrase, word or expression is to be referred to its suitable objects.

The best example of reddendo singula singulis is quoted from **Wharton's law Lexicon**, "If anyone shall draw or load any sword or gun, the word draw is applied to sword only and the word load to gun only, the former verb to former noun and latter to latter, because it is impossible to load a sword or to draw a gun, and so of other applications of different sets of words to one another." • The reddendo singula singulis principle concerns the use of words

distributively. Where a complex sentence has more than one subject, and more than one object, it may be the right construction to provide each to each, by reading the provision distributively and applying each object to its appropriate subject. A similar principle applies to verbs and their subjects, and to other parts of speech.

6. Expresssio Unius Est Exclusio Alterius

Expressio unius est exclusio alterius is a Latin phrase that means express mention of one thing excludes all others. This is one of the rules used in interpretation of statutes. **The phrase indicates that items not on the list are assumed not to be covered by the statute.** When something is mentioned expressly in a statute it leads to the presumption that the things not mentioned are excluded. This is an aid to construction of statutes.

SELF-TEST QUESTIONS

Social Contract theory.	Hobbes	St. Thomas Acquinas	Socr
General Will Theory.	J.Rousseau	St. Thomas Acquinas	Socr
Principle of Hedonism (Pain and pleasure theory)	Bentham	St. Thomas Acquinas	Socr
Utilitarian Theory	Bentham	St. Thomas Acquinas	Socr
Greatest happiness of greatest number	Bentham	St. Thomas Acquinas	Socr
Father of English Jurisprudence	Austin	Bentham	St. T Acqu
Command Theory	Austin	Bentham	St. T Acqu
Grundnorm Theory	Kelson	Bentham	St. T Acqu