

All about the Doctrine of harmonious construction

By **Sneha Mahawar** - February 2, 2024



This article is written by [Ashutosh Singh](#), and co-authored by [Pruthvi Ramakanta Hegde](#). This article emphasises the meaning, scope and concept of the doctrine of harmonious construction, further covering various important landmark judgments on harmonious construction.

This article has been published by [Shashwat Kaushik](#).

Table of Contents



1. Introduction
2. History behind the doctrine of harmonious construction
3. What is the doctrine of harmonious construction
4. Scope and objective of the doctrine of harmonious construction
 - 4.1. Latin maxims related to the doctrine of harmonious construction
 - 4.1.1. Generalia specialibus non derogant
 - 4.1.2. Generalibus specialia derogant
5. Principles that govern the doctrine of harmonious construction
6. Importance of the doctrine of harmonious construction
7. Application of the doctrine of harmonious construction
 - 7.1. Applicability of the doctrine of harmonious construction on foreign conventions
8. Doctrine of harmonious construction in comparison with literal interpretation
 - 8.1. Sri Jagannath Temple Managing Committee v. Siddha Math and Others (2015)
 - 8.2. Venkataramana Devaru v. State of Mysore (1957)
 - 8.3. State of Rajasthan v. Gopi Kishan Sen (1992)
 - 8.4. Unni Krishnan, J.P., etc. v. State of Andhra Pradesh and Others (1993)
 - 8.5. Sirsilk v. Government of Andhra Pradesh (1963)
 - 8.6. K.M. Nanavati v. The State of Maharashtra, (1961)
 - 8.7. Calcutta Gas Company Private Limited v. State of West Bengal (1962)
 - 8.8. Sales Tax Officer, Banaras v. Kanhaiya Lal Mukund Lal Saraf (1958)
 - 8.9. Raj Krushna Bose v. Binod Kanunga and others (1954)
 - 8.10. R.K Garg v. Union of India (1981)
9. Conclusion
10. Frequently Asked Questions (FAQs)
 - 10.1. Why is harmonious construction important in legal interpretation?
 - 10.2. When should harmonious construction be applied?
 - 10.3. Are there any limitations to the doctrine of harmonious construction?
 - 10.4. What role does legislative intent play in the doctrine of harmonious construction?
 - 10.5. What is the difference between literal and harmonious interpretation?
 - 10.6. How does harmonious construction help to avoid legal confusion and conflicts?
11. References

Introduction

A legal doctrine is a principle, a theory, or a position that is commonly applied and upheld by the courts. Different judicial doctrines have developed over time in Indian constitutional law based on different judicial interpretations of the judiciary. These legal concepts did not form or take place at once but they are a result of disagreements, unrest, debates, and legislative solutions, and require improvement. These situations arise when the statutes and their provisions have more than one interpretation because of an ambiguity in the law. After the statute has been enacted, the legislature becomes *functus officio* (no longer has jurisdiction). The interpreters of the law are then unable to question or get back to the legislature to request the exact interpretation of the legislation while they are making it. Sometimes lawmakers may not have considered such a broad range of circumstances when drafting any given statute. The thumb rule for interpreting any statute is then the rule of harmonious construction. The doctrine of harmonious construction is a tool that helps judges and legal experts make sense of conflicting laws or rules. Instead of declaring any statute void, it is better to save the legislation whenever conflicts arise between two legislations. This principle ensures that laws are understood and applied very smoothly without nullifying the legislation. The doctrine of harmonious construction is followed when there arises an inconsistency between two or more statutes or sections of a particular statute. The fundamental principle behind this doctrine is that a statute has a legal purpose and should be read in its totality and after that, the interpretation that is consistent with all the provisions of

that statute should be used. In a situation where harmonising all clauses is unlikely the court's decision on the provision then takes precedence. This doctrine encourages the judiciary to interpret laws in a manner that avoids clashes and contradictions between them, thereby seeking a balanced interpretation that respects the legislative intent behind each provision.

History behind the doctrine of harmonious construction

The doctrine of harmonious construction came into existence as a result of many varied court interpretations of different statutes in a variety of cases. From time to time, the judiciary decided matters that involved opposition between two distinct provisions. This doctrine came cloaked as the rule of conciliation first in the case of *C. P. and Berar Act (1939)*, where the involved court resolved the inconsistency between an entry of [List I](#), and an entry of [List II](#) in the Indian Constitution and interpreted them harmoniously.

In the aforesaid case, the question was whether a tax imposed by a provincial legislature on the sale of oil by a person who manufactured it, based on the ground that it was actually an excise duty. Then, a sales tax could be imposed by a provincial legislature, and an excise duty could be imposed only by the union legislature. The Apex Court, in this case, remarked that it would be peculiar if the Union had exclusive power to tax retail sales when the province had executive power to make laws with respect to trade and commerce, its production and supply, and the distribution of goods within its boundaries. Hence, it was a sales tax and the Act was not *ultra vires*. The Court added that there was no overlapping or conflict of two entries, so as to apply a non-obstante clause.

The doctrine's conception can be tracked all the way back to the first amendment to the [Constitution of India](#), 1951, in the landmark judgement of *Sri Shankari Prasad Singh Deo v. Union of India (1951)*. The disagreement between the [Fundamental Rights](#) (Part III) and the [Directive Principles](#) (Part IV) of the Constitution of India was the subject of the case. Constitutional law is mainly concerned with the creation of the three great organs and the distribution of governmental powers among them, that is the executive, the legislature and the judiciary.

The Apex Court, in this case, made use of the rule of harmonious construction and held that Fundamental Rights are granted against the State and they may be revoked only under certain circumstances and even modified by the Parliament to comply with the constitutional provisions. The Supreme Court gave preference to both and said that the Fundamental Rights and Directive Principles of State Policy are two sides of the same coin, and it is beneficial that they must work together. The Supreme Court further held that the Fundamental Rights enforce limitation over both the legislature and executive power. They are not sacrosanct and the Parliament can amend them to bring them in conformity with the Directive Principles.

The Supreme Court articulated the doctrine of harmonious construction in the case, *Re Kerala Education Bill Case (1957)*. The court added that there was no inherent conflict between the Fundamental Rights and the Directive Principles of the State Policy and they together constitute an integrated scheme and a comprehensive administrative and social

programme for a modern democratic state. The court called them supplementary and complementary to each other. Therefore, effort should be put to construe them harmoniously, so that the courts avoid any conflict among the Fundamental Rights and Directive Principles. They basically run parallel to each other and neither one is subordinate to the other.

What is the doctrine of harmonious construction

In general, the doctrine of harmonious construction means that when there arises a conflict between different statutes or between the statutes, in such circumstances, courts try to interpret them in a way that makes them work together smoothly instead of declaring other statutes void. The main aim of this doctrine is to give effect to all the provisions while maintaining the overall coherence and purpose of the law.

Scope and objective of the doctrine of harmonious construction

The aim of the judiciary and the courts should be to view the law as a whole. The interpretation of the law should be such that it prevents confusion or incompatibility between the different sections or parts of the statute being used. Whenever a discrepancy arises between two or more statutes or different clauses or sections of a statute, the doctrine of harmonious construction must be followed. **The doctrine is based on the straightforward principle that every statute has a legal purpose and should be read in totality.** The interpretation should be such that it is unswerving and all of the statute's provisions should be used. In the event that harmonising two or more statutes or different clauses or sections of a statute is unlikely, the court's decision on the provision would take precedence. **Harmonious construction comes when there may be different laws or provisions that could apply to particular situations. In such circumstances, it needs to be interpreted in a manner that allows them to complement each other.** The doctrine further emphasises that laws are made by the state with the aim of promoting the interests of society as a whole. **The role of the judiciary is not to obstruct the implementation of these laws but to complement the efforts of the legislature. In other words, the judiciary should interpret and apply the law in a way that aligns legislative intent with societal goals.**

Latin maxims related to the doctrine of harmonious construction

Generalia specialibus non derogant

The Latin maxim means that **the courts prefer specific provisions to provisions of general application whenever the provisions are in conflict.** In other words, the general rule to be followed in case of a conflict between two statutes is that the latter retracts the previous one. **One cannot hold that previous or special legislation indirectly repealed, altered or considered it derogated from,** simply by force of such general words, **without any suggestion of that particular intention to do so.** This means that a prior special law would yield to a later general law if two of the following conditions are satisfied, the later law, even though general, would prevail if:

- The two provisions are conflicting with each other.
- There is some express reference in the later legislation of the previous enactment.

Generalibus specialia derogant

Generalibus specialia derogant is another legal maxim used in connection with the harmonious construction rule in India. **It basically means that special things detract from general things. In other words, if a special provision is made on a certain matter, then that matter is excluded from the general provisions.** Applying this rule, the Patna High Court held in its judgement, *Vinay Kumar Singh v. Bihar State Electricity Board (2003)* that [Article 351](#) of the Constitution of India is a general provision regarding the development of Hindi in India. [Article 348](#) on the other hand, is a specific provision with respect to the language to be used in the Supreme Court and the high courts. Therefore, the applicability of Article 351 of the Constitution is entirely precluded.

Principles that govern the doctrine of harmonious construction

Commissioner of Income Tax v. M/S Hindustan Bulk Carriers (2000) is a landmark case where the Supreme Court laid down five main principles that govern the rule of harmonious construction that are as follows:

- First and foremost, the courts should try and avoid a conflict of seemingly disputing provisions and effort must be made to construe the disputing provisions so as to harmonise them.
- Secondly, The provision of one section cannot be used to overthrow the provision covered in another section unless the court is unable to find a way to settle their differences despite all its effort. In other words, the court underlined that one section of the law should not be used to override or suppress the other section unless it is impossible to reconcile their differences.
- Thirdly, In the situation when the court finds it impossible to entirely reconcile the differences in inconsistent provisions, the courts must interpret them such that effect is given to both the provisions as far as possible.
- Fourthly, Courts must also take into account that the interpretation that makes one provision redundant and useless is against the essence of harmonious construction.
- Finally, Harmonising two contradicting provisions means not to destroy any statutory provision or to render it ineffective, but rather preserving and respecting all provisions to maintain their legal significance.

Importance of the doctrine of harmonious construction

The doctrine is typically used while interpreting two or more statutes or within the statute whenever there are conflicts between them. The concept of the doctrine of harmonious construction deals with the following aspects, that includes-

- **Avoid conflicts-** Instead of creating contradictions between different statutes or provisions, harmonious construction seeks to interpret them in a way that minimises the conflicts.

For instance, if one statute sets the minimum wage for employees and another specifies certain exceptions in such situations, the court should strive to interpret them in a manner that harmonises both laws, ensuring that employees receive the intended minimum wage without violating the exemption clauses of the statute.

- **Balancing interest-** Harmonious construction often involves striking a balance between competing interests between the statutes.

For instance, imagine a case where one statute imposes strict environmental regulations to protect a particular ecosystem, while another statute encourages economic development in the same area. By applying harmonious construction, courts can interpret in a manner that balances statutes related to environmental protection as well as economic development without nullifying any one of the statutes. In this way, the court can create a balanced approach between the statutes.

- **Protecting legislative intent-** The doctrine ensures that the original intent of the lawmakers must be preserved.

For instance, if one statute seeks to regulate the sale of alcohol to minors and another law addresses licensing requirements for alcohol vendors, harmonious construction would aim to interpret them in a manner that upholds the goal of preventing underage drinking without hindering legitimate businesses.

Application of the doctrine of harmonious construction

The Courts have articulated some procedures for the proper applicability of the aforesaid doctrine after reviewing numerous case laws. They are as follows:

- Giving equal importance to both the conflicting provisions, thus reducing their inconsistency.
- The provisions that are fundamentally inconsistent or repugnant to each other must be read in their entirety, and the complete enactment must be taken into account.
- The provision with a broader reach of the two contradicting provisions should be considered.
- Comparing the broad and narrow provisions, the courts should analyse the broad law to see if there are any other concerns. No further thought needs to be given if the result is fair and harmonising both clauses can be done by giving them full weight separately. This is because the legislature was well aware of the situation they were attempting to address when enacting the provisions, and hence all provisions adopted must be given full effect.
- When one provision of the Act slivers, the powers conferred by another Act then a non-obstante clause must be used.
- It is significant that the court establishes the degree that the legislature wanted to grant one provision overriding authority over another.

In the *Jumma Masjid Mercara vs. Kodimaniandra Deviah (1962)* case, there was a clash between [Section 6A](#) and [Section 43](#) of the Transfer of Property Act 1882. Accordingly, Section 6A dealt with the **chance of succession not being allowed to be transferred** from one person to another. Section 43 of the Act permits such a transfer on the occasion

where erroneous/false representation for consideration takes place. The Honourable Supreme Court of India interpreted both provisions by applying harmonious construction and held that Section 6A was considered a general rule and Section 43 was its exception.

Applicability of the doctrine of harmonious construction on foreign conventions

In the case of *Union of India vs. Azadi Bachavo Andolan (2002)*, the Supreme Court interpreted the statutes by applying the doctrine of harmonious construction to balance the conflicting provisions of the [Income Tax Act 1961](#) and the Double Taxation Avoidance Convention between India and Mauritius. The conflict arose because the said convention provided certain exemptions, while the said Act provisions seemed to tax capital gains. The court used harmonious construction and held that these provisions were constructed in a way that avoids double taxation and upheld the intent of the said convention, ensuring that taxpayers were not subjected to undue tax liability.

Doctrine of harmonious construction in comparison with literal interpretation

Literal interpretation always follows the literal meaning of the words. It means reading and applying the law exactly as it is written in the statutes without considering the broader perspective or legislative intent of the statute. Under this type of interpretation, courts are obligated to interpret the statutes as they are stated. The approach can lead to a strict and narrow understanding of the law. Whereas in harmonious construction, it is a more flexible approach to interpreting the law by taking into account aspects of the entire legal framework, including intent and purpose of the law. The main aim is to reconcile the conflicting provisions within the statute or in between the statutes while ensuring they work together smoothly.

In the case of *M/S Rahabhar Production (P) Ltd. vs. Rajendra Tandon (1998)*, the honourable Supreme Court of India observed that the [Delhi Rent Control Act 1958](#), was comprehensive legislation with both a beneficial and restrictive approach. Therefore, the court has to interpret the provisions in a way that complements each landlord and tenant by harmonising the situation. The court also noted that the legislative object of the said Act was to prevent landlords from evicting tenants who paid lower rent in the guise of personal occupation and then renting out premises at higher rates. In order to understand the intent of legislation, the court has to look beyond the literal interpretation. In this circumstance, harmonious construction plays a crucial role.

Case laws explaining the application of doctrine of harmonious construction

Following are some famous Indian case laws where the courts have tried to interpret certain statutes with the help of applying the rule of harmonious construction.

Sri Jagannath Temple Managing Committee v. Siddha Math and Others (2015)

In this [case](#), provisions of the [Sri Jagannath Temple Act, 1955](#) and the [Orissa Estate Abolition Act, \(OEA\) 1951](#) came into scrutiny. The Supreme Court said that a clear conflict arose between [Section 2\(oo\)](#) of the Orissa Estates Abolition Act, 1951 and Sections 5 and Section 30 of the Shri Jagannath Temple Act, 1955. The Court added that it was also clear that both the given statutory provisions of the aforementioned Acts cannot survive together. The Court said that while using the rule of harmonious construction it should be taken into account that when the provisions of two statutes are irreconcilable, one must decide which provision must be given effect to.

In this case, Section 2(oo) of the OEA Act in its entirety was not violating the provisions of Sri Jagannath Temple Act. It was only the first part of the proviso which was contradicting the Jagannath Temple Act. If that part of the proviso continued to be given effect then Sections 5 and 30 of the Jagannath Temple Act, by which the estates of the Jagannath temple at Puri are entrusted in the temple committee, would then lose their meaning. The Court further explained that by striking down Section 2(oo) proviso of the OEA Act, both the provisions would be operable. Whenever a question comes up about the application of specific and general laws in the same case then the nature of the case and the issues must be scrutinised by the court concerned. If, however, the two laws are in absolute conflict, then there must be a check on the limitations placed and exceptions foisted by the Legislature.

The Apex Court held that the special provisions of the Jagannath Temple Act would prevail in this case, and thus, **the principle of *generalia specialibus non derogant* was applied.**

Venkataramana Devaru v. State of Mysore (1957)

In this [case](#), the trustees of an ancient, renowned temple of Sri Venkataramana filed a suit under [Section 92](#) of the [Code of Civil Procedure, 1908](#) (CPC) against the exclusion of Harijans from entering into Hindu temples after the passing of the [Madras Temple Entry Authorization Act \(Madras V of 1947\)](#). The trustees made a representation to the Government that the temple was a private one and founded exclusively for the Gowda Saraswath Brahmins, and, therefore, outside the operation of the Madras Temple Entry Authorization Act. However, the Government did not accept that position and held that the said Act applied to the temple.

The trustees argued that the temple was not defined under Section 2(2) of the Madras Temple Entry Authorization Act and Section 3 of the Act was void because it was offensive to [Article 26\(b\)](#) of the Constitution of India. Thus, an appeal was made to the Trial Court which gave a decision against the appellants. But the High Court of Madras passed a limited decree in the favour of the appellants stating that although the public, in general, were entitled to worship in a temple, the appellants had a right to exclude the general public during certain ceremonies in which only the members of the Gowda Saraswath Brahmins alone were entitled to participate. Dealing with the controversy that Section 3 of the Madras Temple Entry Authorization Act was in violation of Article 26(b) of the Indian Constitution, the High Court held that a denominational institution is also a

public institution, [Article 25\(2\)\(b\)](#) of the Constitution would apply, and therefore, all classes of Hindus were entitled to enter into the temple for worship.

The Court further added that [Article 25\(1\)](#) of the Constitution deals with the rights of individuals and Article 26(b) with the rights of religious denominations. However, [Article 25\(2\)](#) covers a much wider ground and controls both the Articles. Article 26(b) must, therefore, be read keeping in mind Article 25(2)(b) of the Constitution.

The decision by the Supreme Court clarified the challenge in the interpretation of Section 2(2) and Section 3 of the Madras Temple Entry Authorisation Act (V of 1947) while also laying clearly the concepts pertaining to the matter of religion and harmonisation of irregularities arising at the time of interpretation of Article 25(2)(b) and Article 26(b) of the Indian Constitution. The Apex Court dismissed both the appeal and the application for special leave to appeal.

State of Rajasthan v. Gopi Kishan Sen (1992)

The respondent, in this [case](#), was appointed as an untrained teacher in Rajasthan in 1972. The State of Rajasthan, who is the appellant, in this case, refused him his claim of salary on the pay scale of Rs. 160-360/- per month. The respondent then made an application under [Article 226](#) of the Constitution of India in the High Court of Rajasthan which was allowed by the impugned judgement. However, the pay scale of Rs. 160-360/- per month was given only to trained teachers. The respondent was not a trained teacher and hence, he was appointed at a fixed salary of Rs. 130/- per month until he became trained which comes under the provisions of the [Rajasthan Civil Services \(New Pay Scales\) Rules, 1969](#) that is read with [Rajasthan Education Subordinate Service Rules, 1971](#).

The pay scales, however, have been revised subsequently. The amount of Rs. 130/- per month was fixed as the salary of the untrained teacher and this provision was struck down by the High Court in part, considering it to be illegal discrimination. Accordingly, the appellant was asked to pay the respondent his salary at the higher rate for the period of 1972 to 1982 and this was challenged on behalf of the appellant as flawed.

When the case reached the Supreme Court, the Court observed that the rule of harmonious construction of seemingly contradictory statutory provisions is well recognized for as far as it may be possible to uphold and give effect to all the provisions and avoid the interpretation which may render any of them powerless.

[Rule 29 of the Rajasthan Services Rules, 1951](#) dealing with the increment in pay scale is in general terms, while the schedule in the Rajasthan Civil Services (New Pay Scales) Rules, 1969 has a special provision overseeing the untrained teachers. This case thus attracts the maxim '*generalibus specialia derogant*' because when a special provision is made on a certain subject then that subject is excluded from the general provision.

Unni Krishnan, J.P., etc. v. State of Andhra Pradesh and Others (1993)

The [case](#) of Unni Krishnan was momentous with respect to the Right to education in India as it contested the question of the 'Right to life' as provided under [Article 21](#) of the Constitution of India. Article 21 guarantees every citizen a right to education. The issues which came before the Apex Court were, whether a citizen has a Fundamental Right to education for professional degrees like medicine, engineering etc. and whether our Constitution guarantees the right to education to all its citizens.

A writ petition was filed challenging whether the 'Right to life' under Article 21 also covers and guarantees the right to education to all the citizens of India, and the right to education here also includes professional education or degree.

The Supreme Court held that the right to basic education was inferred by the: Right to life under Article 21 when read with [Article 41](#) of the directive principle on education. The Court also referred to [Article 45](#) and inferred that there is no fundamental right to education for a professional degree that emanates from Article 21. On the issue of the prevalence of Fundamental Rights over Directive Principles of State Policy (DPSP), the Court commented that the provisions of Part Three and Part Four are supplementary and complementary to each other and that the Fundamental Rights and Directive Principles should be interpreted harmoniously as they form the social conscience of the Indian Constitution.

Sirsilk v. Government of Andhra Pradesh (1963)

In this [case](#), the Sirsilk Company entered into a dispute with the Government of Andhra Pradesh and their employees. The dispute was also taken to an Industrial Tribunal. After deciding on it, the authority delivered its award in September 1957 after which it was to be published in the Official Gazette of the Government of Andhra Pradesh. But the corporation and the employees jointly asked not to publish the award because they had already resolved their disagreement amicably. The Government declined to acknowledge the appeal of the parties after which the parties lodged a writ application with the High Court, for issuance of an order to the government for stopping them from publishing the issue of the award in a publication. The High Court rejected the writ application and said that it was mandatory under [Section 17](#) in the [Industrial Disputes Act, 1947](#) and the government should not withhold the publication of an award submitted to it by the Industrial Tribunal. The appeal by the Sirsilk Company was then filed in the Supreme Court by the parties.

The corporation and the employees submitted that since both the parties signed a resolution that is binding to them under [Section 18\(1\)](#) of the Industrial Dispute Act, the government's award under [Section 17\(1\)](#), is daunting on the group and it should not be released. The resolution agreed by the parties should be observed and the industrial peace preserved. The Government on the other hand quoting the mandatory nature of [Section 17\(1\)](#) of the Industrial Dispute Act said that the award had to be issued within 30 days of receipt of the same. The objective of the reference to the Tribunal is to settle disputes and when a resolution is reached between the parties then the question of the

award for publication, issued by the Tribunal appears to be illogical and has no essence since there is no conflict left to be resolved by publication of the award.

The Supreme Court observed that there is a difference of opinion between Section 17 and Section 18 of the Act and it is important to find a remedy that preserves the primary spectrum of the Industrial Dispute Act. The Supreme Court held that the only way to resolve the two contradictory clauses of such a case is to allow the Government to withdraw the publication of the award and to permit the parties to continue with their resolution. The Supreme Court said that while Section 17 and Section 18 of the Act were mandatory, in spite of the fact that the parties have already settled their dispute amicably by agreement, in the present case, no dispute remained to be resolved by the publication of the award, and hence, the Apex Court directed the Government not to publish the award in compliance with Act 17(1) and the appeal was approved.

This decision of the Supreme Court is a perfect example of how one provisions' rules can be applied without rendering meaningless or obsolete another provision of the law.

K.M. Nanavati v. The State of Maharashtra, (1961)

This is one of the most famous cases in Indian legal history and the jury trials were abolished after this [case](#) in India. A Navy Commander KM Nanavati was accused of murdering his wife's secret lover, Prem Ahuja, and as a result, was held guilty under [Section 302](#) of the Indian Penal Code.

He was charged under Section 302 and [Section 304](#) of the IPC and the trial was held by a Sessions Judge, Bombay and the special jury held him not guilty under both the sections involved under IPC. However, the Sessions Judge was dissatisfied with the jury's decision as he felt that it was not a logical decision taking into view the evidence of the case. So, he took the case to the High Court of Bombay under [Section 307](#) of the [Code of Criminal Procedure, 1973](#) giving reasons for his views. The High Court approved the reasoning of the Sessions Judge. The High Court said that taking into account the circumstances of the case, the offence could not be reduced from murder to culpable homicide not amounting to murder. The High Court held Nanavati guilty of the offence of murder and this decision was further challenged in the Supreme Court. In the meantime, the Governor of Bombay by the use of power vested in him under [Article 161](#) of the Constitution of India passed an order for the suspension of Nanavati.

The decision of the Governor was questioned because when the suspension was ordered the case was sub-judice under the Supreme Court. Applying the principle of harmonious construction to settle the conflict that arose between the executive and the judiciary, the Supreme Court held that Article 161 and the suspension by the Governor was not applicable when the case was sub-judice.

Calcutta Gas Company Private Limited v. State of West Bengal (1962)

[Oriental Gas Company Act, 1960](#) was passed by the State Legislative Assembly of West Bengal. The appellant, in this case, challenged the validity of this Act on the grounds that the State Legislative Assembly had no power to pass such an Act under Entry 24 and

Entry 25 (Constitution of India, List II) of the State since the Government wanted to take over the management of the company. The appellant reasoned that the Parliament had already enacted [the Industries Development and Regulation Act, 1951](#) under Entry 52 of the Union list/List I, which dealt with industries.

Entire industries in the State List are covered under Entry 24, and Entry 25 is only limited to the gas industry. The Supreme Court in this case used the rule of harmonious construction and held that it was clear that the gas industry was covered completely by Entry 25 of the State List over which the State had full control. Therefore, the state had the power to make laws in this regard. Therefore, with the help of the rule of harmonious construction, the Supreme Court expressed that the gas industry came under Entry 25 which is a part of the State List, and this gives the State full control over it.

Sales Tax Officer, Banaras v. Kanhaiya Lal Mukund Lal Saraf (1958)

In this [case](#), the Honourable Supreme Court dealt with disputes related to sales tax law. Accordingly, the case revolved around the interpretation of the provision between the [Uttar Pradesh Sales Tax Act, 1948](#) and the [Central Sales Tax Act of 1956](#). The conflict arose from the fact that the Uttar Pradesh Sales Tax Act 1948 imposed a tax on the sale of goods within the state of Uttar Pradesh, while the Central Sales Tax Act 1956 dealt with the inter-state sale of goods and provided for the concessional rate of tax. The question before the Supreme Court was how to harmonise these two statutes when goods were sold from Uttar Pradesh to other states. The court held that there was no conflict between the two statutes; the Uttar Pradesh Sales Tax Act 1948 applied to sales that occurred within the state's territory, while the Central Sales Tax Act 1956 applied to sales that took place between the states. Therefore, the two statutes operate in their own spheres, and there is no overlap between these statutes. In this way, the court applied harmonious construction.

Raj Krushna Bose v. Binod Kanunga and others (1954)

In this [case](#), there was a legal conflict involving rules in the [Representation of People Act 1951](#). Accordingly, [Section 33\(2\)](#) of the Act states that government employees could support or recommend candidates running for office. On the other hand, [Section 123\(8\)](#) of the same Act states that government employees cannot help candidates in an election except by casting their own votes. The honourable Supreme Court interpreted both statutes by applying harmonious construction and holding that government employees could indeed support or recommend a candidate by nominating or seconding them. However, they couldn't assist candidates in any other way. So, they could nominate or support someone, but they couldn't do anything else to help them in the election. In this way, the court found a balance between these provisions, allowing government employees to have a limited role in elections.

R.K Garg v. Union of India (1981)

In this [case](#), the honourable Supreme Court of India addressed the constitutional validity of the [Special Bearer Bonds \(Immunities and Exemptions\) Ordinance 1981](#), and the

subsequent Special Bearer Bonds (Immunities and Exemptions) Act 1981. These laws provided certain immunities and tax exemptions for holders of special bearer bonds. The issue in this case was whether the provisions of the Special Bearer Bonds Act were in conformity with the Constitution of India. Specifically, the immunities and exemptions granted under this statute were consistent with the provisions of equality and non-discrimination enshrined in the Constitution. The court emphasised the doctrine of harmonious construction while interpreting the statutes. This doctrine requires that when faced with conflicting provisions, the court should make an effort to reconcile these provisions in a way that aligns with legislative intent. Further held that if there are two possible interpretations of a provision, one leading to unconstitutionality and the other not, then later one needs to be preferred.

Conclusion

The judiciary and the courts in India are making all efforts to protect and maintain the object of every provision of the Indian Constitution by using the doctrine of harmonious construction as one of the tools. Using the principle of harmonious construction, the Indian Judiciary has tried to explain the intention or objective of the framers of the Constitution for framing the different statutes. The rule of harmonious construction brings consistency between different conflicting provisions so that none of them is rendered powerless or dead-letter as there has been considerable thought by the legislature in making them. Through the analysis of the different cases in this article, it can be concluded that the principle of harmonious construction or interpretation is an effective tool of interpretation used by the Indian courts to not only resolve conflicts but also to make important decisions on subject matters of different lists. Harmonious construction stands as a vital doctrine in the realm of the legal field. It plays a crucial role when there arises a conflict between two or more statutes or within the statutes. This doctrine ensures that societal interests and legislative intentions must be protected by the judiciary by harmonising and creating a balanced approach while interpreting the statutes. On the other hand, it emphasises the adaptability and fairness of the legal system, ensuring that the law remains a just and effective instrument in our society.

Frequently Asked Questions (FAQs)

Why is harmonious construction important in legal interpretation?

It is a needed doctrine that resolves the conflicts or ambiguities between the provisions of law. The doctrine prevents contradictions and promotes a balanced approach. It encourages the court to interpret in that manner thereby providing the way for saving the provisions of statutes.

When should harmonious construction be applied?

Whenever there arises a conflict between the different sections or provisions of the same statute or in between the statutes, in such circumstances, the judiciary has to protect the intent of the legislation by applying harmonious construction to give smooth effect without nullifying other provisions or statutes.

Are there any limitations to the doctrine of harmonious construction?

Yes, there are limitations to this doctrine. In situations where statutory conflicts are irrecoverable or when the legislative intent is unclear and unambiguous and also not consistent with constitutional provisions, this doctrine cannot be applied; instead, the court prioritises applying other heads of principles.

What role does legislative intent play in the doctrine of harmonious construction?

In harmonious construction, legislative intention plays a crucial role as it guides the court in reconciling conflicting provisions within a statute. The goal is to interpret the law in a manner that aligns with what the lawmakers intended when enacting the statute. By respecting and upholding the legislative intent, the court can harmonise provisions to work together cohesively while upholding the purpose and goals set by the legislature.

What is the difference between literal and harmonious interpretation?

Literal interpretation sticks closely to the exact words of the law, taking their plain meaning without much consideration for the overall context. It follows the words precisely, even if it leads to an impractical or unfair result. On the other hand, harmonious interpretation aims to blend different parts of the law together, resolving conflicts or ambiguities. It seeks a balanced approach, ensuring that all provisions work together smoothly and don't contradict each other. While literal interpretation is like following the words strictly, harmonious interpretation is like making sure all the words work well together, creating a cohesive and sensible outcome.

How does harmonious construction help to avoid legal confusion and conflicts?

Harmonious construction makes laws work well together, without declaring anyone as void. It stops laws from causing confusion. It keeps things clear and certain. So, if there are different rules, harmonious construction helps to make sure that they all make sense together instead of declaring any statute as not valid.

References

- <https://www.ilms.academy/blog/rule-of-harmonious-construction>
- <https://www.lawyersnjurists.com/article/doctrine-of-harmonious-construction/>
- <https://lawbhoomi.com/a-study-on-doctrine-of-harmonious-construction/>
- <https://lawcorner.in/doctrine-of-harmonious-construction/>
- <https://lexpeeps.in/doctrine-of-harmonious-construction/>
- <https://indiankanoon.org/docfragment/2757534/?big=3&formInput=harmonious%20construction>
- <http://gsbkonkanis.coffeecup.com/html5/history.html>
- <http://www.ijlljs.in/wp-content/uploads/2014/06/Harmonious-Construction.pdf>
- https://udrc.lkouniv.ac.in/Content/DepartmentContent/SM_86bd3eef-b1b3-4615-b419-e1f2480bcb05_30.pdf

Students of [Lawsikho courses](#) regularly produce writing assignments and work on practical exercises as a part of their coursework and develop themselves in real-life practical skills.

LawSikho has created a telegram group for exchanging legal knowledge, referrals, and various opportunities. You can click on this link and join:

<https://t.me/lawyerscommunity>

Follow us on [Instagram](#) and subscribe to our [YouTube](#) channel for more amazing legal content.