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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

ROLE OF JUDGES IN INTERPRETATION OF STATUTES

AUTHORED BY - NS HARSHINI

INTRODUCTION:

Judges play a vital role in the entire process of interpreting a statute. They are continuously involved in altering the loopholes present in the very nature, legitimacy and sense of legal codes. There may be many reasons for a decision that was taken by a judge and it is not also a necessity to give proper reasoning for those decisions. Thus interpretation of statutes can become an area for proving the perfection of judges.

The judge interprets a statute by keeping in mind the true intent of legislature and the purpose that the legislature is trying to serve so it is very important that a particular law is crafted to fit into different situations and this will make it possible to apply it in different places and in an easy manner so this can lead to lack of perfection and clarifications.

THEORETICAL UNDERPININGS:

The main block for judges was the growth of legal realism school which started gaining popularity. Legal theorists challenged the role of judges in penetrating art of the judiciary in interpreting a statute and wanted judges to give an elaborate view about the reasons for the decisions that they took and looked upon judges to validate the judgements more self consciously. It is more often questioned on “whatever judges have taken a decision, giving preference only to the legislatures intent to serve a true meaning to a statute.

So it had many theoretical underpinings to clear before any interpretation was made.

WAYS OF APPROACH BY JUDGES IN INTERPRETING A STATUTE – THEORIES OF JUSTICE

In arriving at a decision judge can be impaired with his conscious as well as subconscious influences. If this is not sufficient he can refer to different theories of justice proposed by various western thinkers. A few examples would include

1. Rawl s punishment theory – the concept of policy of social extension contract was promoted by justice rawl and in that he points out that justice is the social institution s first goal and nature without a policy being laid down for promoting justice judges will not be able to serve the true purpose of interpreting a statute which prerequisites the actual intent of the legislature
2. Utilitarian justice theory- beutham promoted this theory by highlighting the importance of passing a statute. He says the primacy objective of delivering justice to all should be to pass a statute that is atleast clear and significant
3. Amartya Sen s theory of justice- Amartya advocated on the principle of social choice and stressed that a statute should be enacted to promote social desires and it should have its main goal as desire for justice
4. Gandhian theory of justice – the theory lays down its emphasis on equality, justice for all, social values and reality. This theory of justice is creative idea to world jurisprudence and is based on values laid down by mahatma Gandhi

From the above theories of justice we can now draw an extract of 2 critical approaches or 2 opposing views on how judges can determine the significance of statute.

Firstly the literal approach- this concept of interpretation of statutes pushes the judges to look into the language of legislation concept in exempted cases. They should first understand the true meaning of enabling words to interpret a statute. They should clearly analyse the language of the legislation in order to be able to make a clear interpretation. But at the same time they should not go beyond the legislation in exercising its powers to interpret a clear statute to locate its true meaning more than in the Indian context this approach is prevalent in the english legal system.

Secondly the purposive approach it opposes the literal approach in saying that only understanding of

clear language of legislation can locate a true meaning of interpreting a statute it rather lays emphasis on construction of language of the law itself. It highlights that in cases requiring more importance the judges interpretive role should go beyond locating a true meaning of the language of legislature and wherever necessary it should be given the power to look beyond the words of the statute in actually finding the exact reason of its enactment.

