

MIMANSA: Ancient Wisdom for Modern Governance

- TARUN SATYAVAGEESHWAR

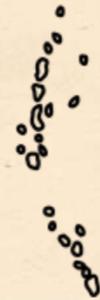
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What do you understand?

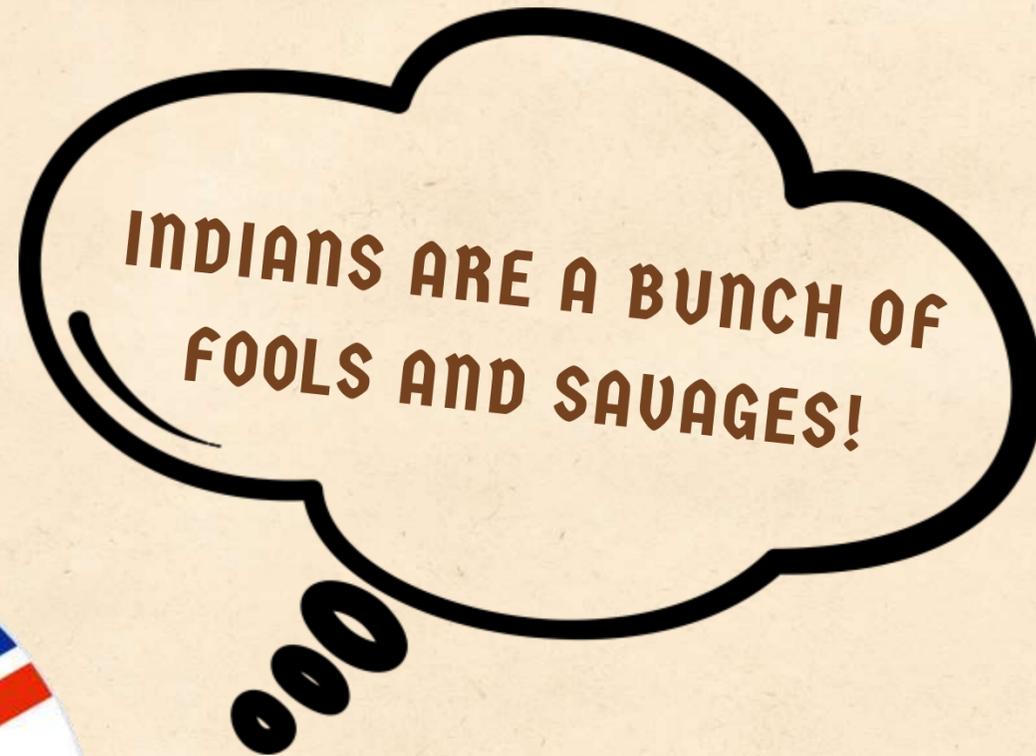
**However strong your teeth are, you
can't bite the water.**

**So, when the laws are written like
this how should courts decide?**

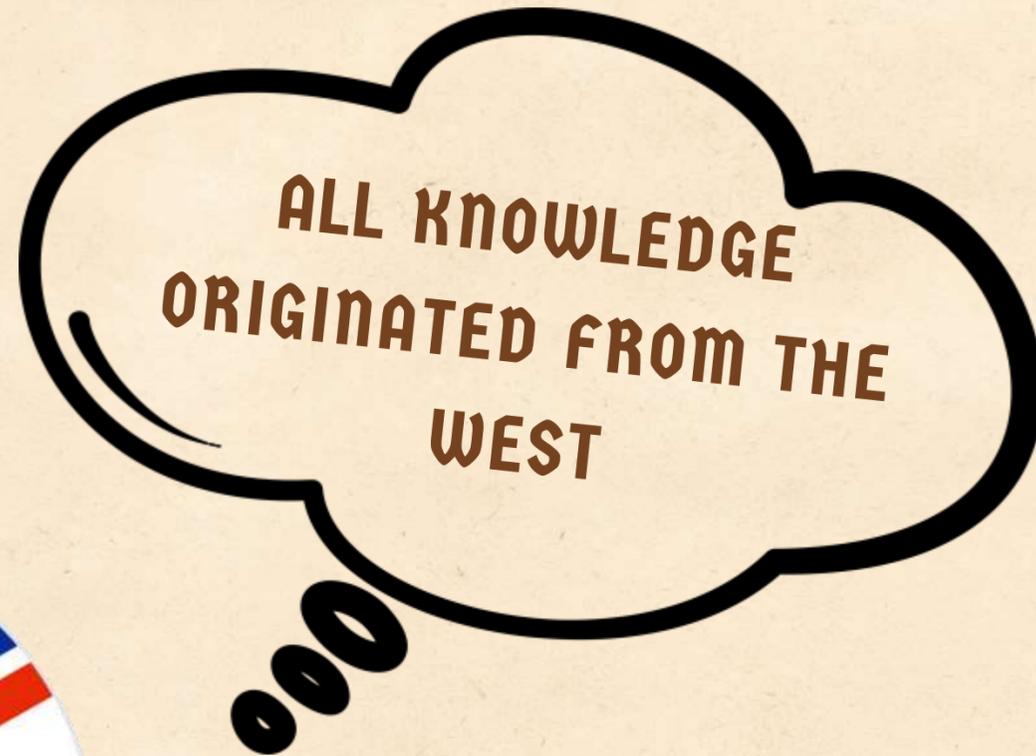
WHEN BRITISH CAME TO INDIA...



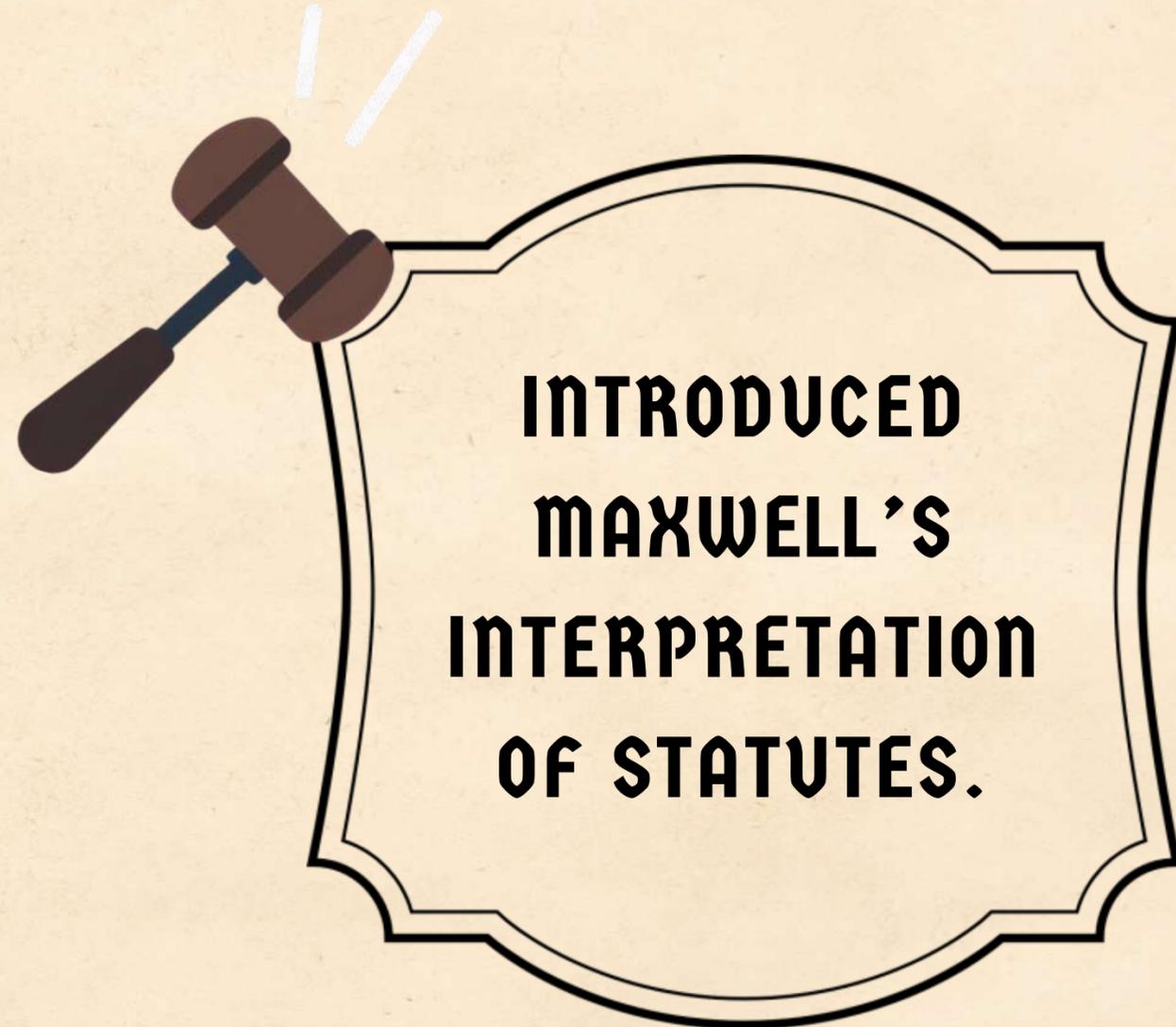
WHEN BRITISH CAME TO INDIA...



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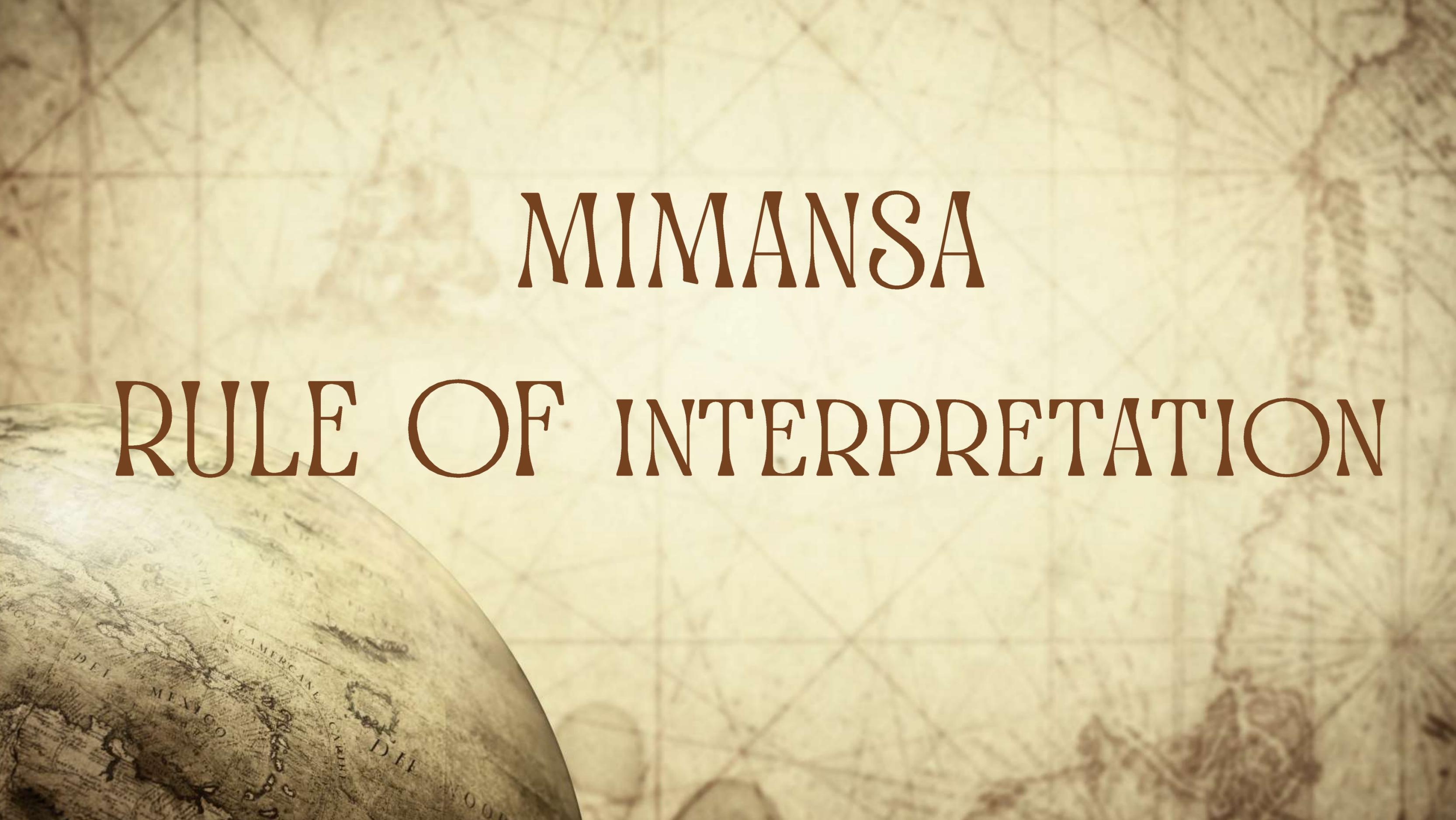
WHEN BRITISH CAME TO INDIA...



BUT....

INDIA HAD ANCIENT AND RATIONAL
METHODS

WHICH WERE CALLED AS...



MIMANSA

RULE OF INTERPRETATION

ORIGIN (PURVA MIMANSA)

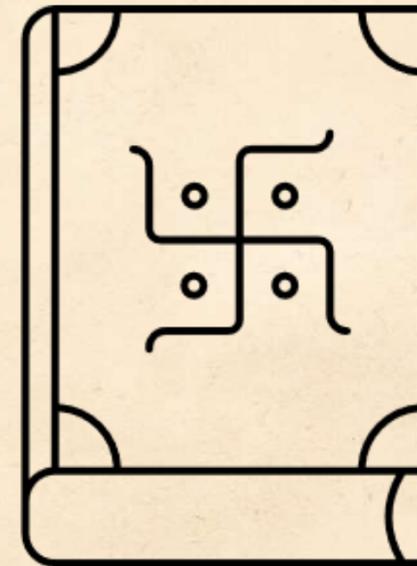
The Foundational Text is the Mimansa Sutras, authored
by RISHI JAIMINI



PURPOSE

To Interpret the Vedas, which were:

VAST
COMPLEX
REPETITIVE



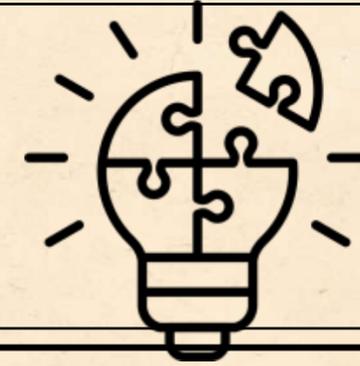
LATER USED FOR...

Vyavahara portions of the Smritis



WHY MIMANSA WAS HIGHLY RATIONALE

LOGICAL SEQUENCING



CONTEXTUAL READING



PURPOSE BASED INTERPRETATION



ADHIKARANA : CORE OF MIMANSA

1. Visaya : Subject Matter

What exactly are we interpreting?

ADHIKARANA : CORE OF MIMANSA

2. Samsaya : Doubt

The ambiguity or conflict in meaning

ADHIKARANA : CORE OF MIMANSA

3. Purva Paksha : Prima Facie View

Literal Interpretation

ADHIKARANA : CORE OF MIMANSA

4. Siddhanta : Final Conclusion

The correct interpretation

ADHIKARANA : CORE OF MIMANSA

5. Prayojana : Result

The outcome

MODERN ANALOGY

MODERN ANALOGY : COURT JUDGEMENT



AXIOMS OF MIMANSA

AXIOMS OF MIMANSA

Sarthakya

All provisions must be read together,
not in isolation.

AXIOMS OF MIMANSA

Sarthakya

Example: Section 185 of the Companies Act 2013 uses: "directly or indirectly advance any loan".

If "**indirectly**" is ignored, promoters could route loans through group companies.

AXIOMS OF MIMANSA

Samanjasya (Harmonious Construction)

All attempts should be made at reconciliation of
apparently conflicting provisions

AXIOMS OF MIMANSA

Samanjasya (Harmonious Construction)

Example: Section 179 and Section 180
of Companies Act, 2013

AXIOMS OF MIMANSA

Arthaikatva

A provision must have only one meaning
at a given time.

AXIOMS OF MIMANSA

Arthaikatva

Can "**Ordinary course of business**" under
Section 188 mean
Routine Transactions and
Exceptional transactions approved
earlier?

AXIOMS OF MIMANSA

Arthaikatva

No. It must mean regular and recurring business, not extraordinary acts.

AXIOMS OF MIMANSA

Gunapradhan

Where a subsidiary idea conflicts with the main purpose, the main purpose prevails.

AXIOMS OF MIMANSA

Gunapradhan

A company appoints an Independent Director who meets pecuniary thresholds u/s 149(6) but is a close associate of a promoter. Formally, the ancillary requirements are satisfied, but independence is compromised.

AXIOMS OF MIMANSA

Gunapradhan

The main purpose of Section 149(6) is to ensure independence of directors, so that board decisions are objective, unbiased, and free from promoter's influence.

AXIOMS OF MIMANSA

Vikalpa

When there is an irreconcilable conflict between two legal rules of equal authority, choose the one that is more equitable and practical.

AXIOMS OF MIMANSA

Vikalpa

A startup enters into an Investment Agreement with a VC (Venture Capitalist).

Two clauses appear to conflict, and both have equal authority in the contract:

AXIOMS OF MIMANSA

Vikalpa

Clause A - Anti-Dilution Protection

If the Company issues shares at a lower price, the VC must get additional shares to maintain value.

Clause B - Cap on Additional Shares

VC cannot receive more than 5% additional equity regardless of circumstances.

AXIOMS OF MIMANSA

Vikalpa

A down-round occurs:

To maintain value, VC needs 8% more shares (as per Clause A).

But Clause B caps it at 5%.

AXIOMS OF MIMANSA

Vikalpa

A down-round occurs:

To maintain value, VC needs 8% more shares (as per Clause A).

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AXIOMS OF MIMANSA

Vikalpa

A court or arbitrator would select the rule that:

Best reflects the main commercial intent of the
Parties

AXIOMS OF MIMANSA

Vikalpa

Thus, they may choose Clause B (cap of 5%),
because:

1. It maintains proportional fairness
2. Protects long-term value of the company

AXIOMS OF MIMANSA

Vikalpa

If the context shows strong anti-dilution protection was the **principal intention**, they may choose Clause A.

AXIOMS OF MIMANSA

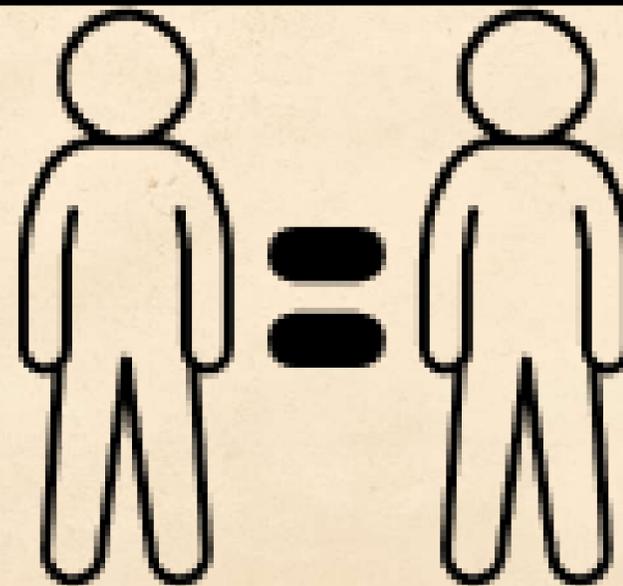
Laghava

Interpretation which makes the meaning simpler and shorter is to be preferred.

MIMANSA IN COURTS

VINAY KHARE V. STATE OF U.P. 1993 ALR 1

When two candidates score the same... who ranks higher?



VINAY KHARE V. STATE OF U.P. 1993 ALR 1

OPTION 1

ORAL
INTERVIEW

VS

OPTION 2

WRITTEN
TEST

VINAY KHARE V. STATE OF U.P. 1993 ALR 1

What would you have done if you were the Judge?

VINAY KHARE V. STATE OF U.P. 1993 ALR 1

Court used **Laghava Principle** to resolve this issue

VINAY KHARE V. STATE OF U.P. 1993 ALR 1

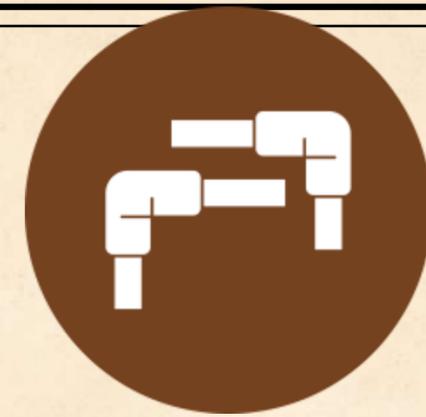
The Court held that:

A candidate with higher written test marks should be ranked higher due to the objective nature of written tests. Oral interviews are subjective and prone to favouritism/arbitrariness.

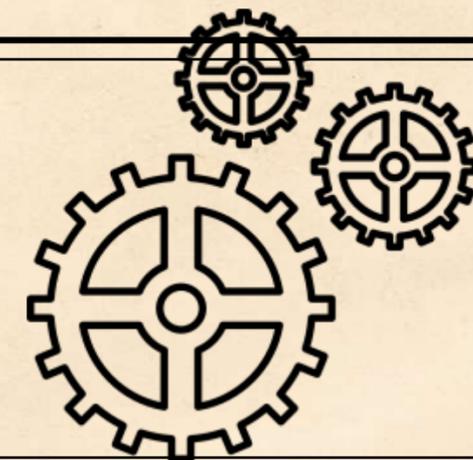
AMIT PLASTIC INDUSTRY V. DIVISIONAL LEVEL COMMITTEE

CMWP No. 372 OF 1989

A factory making PVC pipes set up a new industrial unit.



It bought new machinery and also a weighing machine.



AMIT PLASTIC INDUSTRY V. DIVISIONAL LEVEL COMMITTEE

CMWP NO. 372 OF 1989

They applied for tax exemption under Section 4-A of the U.P. Sales Tax Act.



This benefit is given to new industrial units



AMIT PLASTIC INDUSTRY V. DIVISIONAL LEVEL COMMITTEE

CMWP No. 372 OF 1989

To qualify as a new unit, condition
(Explanation 1(d)):



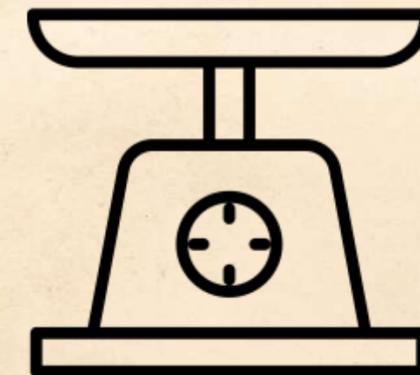
**Unit must use machinery not previously
used in another factory.**

AMIT PLASTIC INDUSTRY V. DIVISIONAL LEVEL COMMITTEE

CMWP NO. 372 OF 1989

Authorities said:

- 1. The seller of the weighing machine did not exist.**
- 2. So the weighing machine must be old machinery.**
- 3. If any old machinery is used, exemption cannot be given.**



AMIT PLASTIC INDUSTRY V. DIVISIONAL LEVEL COMMITTEE

CMWP NO. 372 OF 1989

What would you have done if you were the Judge?

AMIT PLASTIC INDUSTRY V. DIVISIONAL LEVEL COMMITTEE

CMWP NO. 372 OF 1989

The Court used **Gunapradhan Principle** to resolve this
issue.

AMIT PLASTIC INDUSTRY V. DIVISIONAL LEVEL COMMITTEE

CMWP NO. 372 OF 1989

Main purpose (Pradhan):Promote new industries
(Section 4-A(1)).

Accessory requirement (Guna):Machinery should be
new.

AMIT PLASTIC INDUSTRY V. DIVISIONAL LEVEL COMMITTEE

CMWP NO. 372 OF 1989

Exemption can be denied only if a substantial portion of machinery is old.

A small or inexpensive component (e.g., a weighing machine) being old is minor.

AMIT PLASTIC INDUSTRY V. DIVISIONAL LEVEL COMMITTEE

CMWP NO. 372 OF 1989

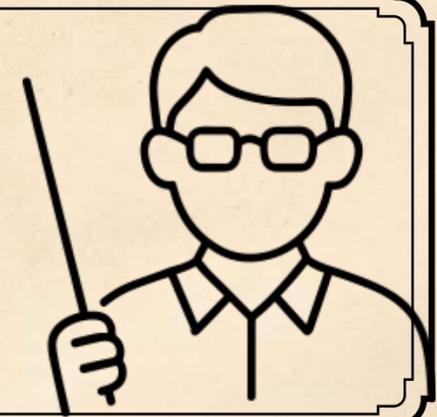
Orders rejecting eligibility certificate was quashed by
the Court.

TRIBHUWAN MISHRA V. DISTRICT INSPECTOR OF SCHOOLS AND OTHERS

Principal's post in a recognized Intermediate College fell vacant. The vacancy was notified to the U.P. Secondary Education Services Commission.



Until regular selection, an ad hoc Principal had to be appointed.



TRIBHUWAN MISHRA V. DISTRICT INSPECTOR OF SCHOOLS AND OTHERS

The petitioner **Tribhuvan Mishra** was the senior-most Lecturer.



However, the Management bypassed him and appointed **Respondent No. 3**, a junior teacher, as ad hoc Principal.



TRIBHUWAN MISHRA V. DISTRICT INSPECTOR OF SCHOOLS AND OTHERS

Who should be appointed as ad hoc Principal when a vacancy arises?

TRIBHUWAN MISHRA V. DISTRICT INSPECTOR OF SCHOOLS AND OTHERS

Section 18 (1)(b), U.P. Secondary Education Services Commission Act, 1982 states that when a Principal's post remains vacant after notification to the Commission: The management may appoint a teacher on ad hoc basis by promotion or direct recruitment.

TRIBHUWAN MISHRA V. DISTRICT INSPECTOR OF SCHOOLS AND OTHERS

Does "**promotion or direct recruitment**" mean full freedom for
the management?

Or

Should the senior-most teacher get preference?

TRIBHUWAN MISHRA V. DISTRICT INSPECTOR OF SCHOOLS AND OTHERS

What would you have done if you were the Judge?

TRIBHUWAN MISHRA V. DISTRICT INSPECTOR OF SCHOOLS AND OTHERS

Judge used the **Samanjasya Axiom** to reconcile conflicting decisions.

TRIBHUWAN MISHRA V. DISTRICT INSPECTOR OF SCHOOLS AND OTHERS

General Rule:

The senior-most qualified teacher must be appointed
ad hoc Principal.

TRIBHUWAN MISHRA V. DISTRICT INSPECTOR OF SCHOOLS AND OTHERS

Exception:

He may be **superseded** only if:

1. Grave charges exist against him (serious misconduct like embezzlement, criminal case),
or
2. Serious physical disability prevents him from functioning as Principal.

TRIBHUWAN MISHRA V. DISTRICT INSPECTOR OF SCHOOLS AND OTHERS

Court held that petitioner was entitled to be made ad hoc Principal unless a valid show-cause process supersedes him.

WHEN JURISTS BOWED TO ANCIENT WISDOM

"It is deeply regrettable that in our Courts of law, lawyers quote Maxwell and Craies but nobody refers to The Mimansa Principles of Interpretation"- Supreme Court in Vijay Narayan Thatte & ors. Vs. State of Maharashtra & ors. (2009(3) G.L.H. 221 S.C.)

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WHEN JURISTS BOWED TO ANCIENT WISDOM

"As a Judge I think it should be my effort to revive the use of these principles" -Justice Markandey Katju

WHEN JURISTS BOWED TO ANCIENT WISDOM

"Today, our so-called educated people are largely ignorant about the great intellectual achievements of our ancestors, and the intellectual treasury which they have bequeathed to us. Interpretation are one of these great achievements, but regrettably they are hardly ever used in our law courts" - Judge in the case of

Premanand & Ors vs Mohan Koikal & Ors

WHEN JURISTS BOWED TO ANCIENT WISDOM

"The logic of Mimansa is the logic of law"-Colebrooke

CONCLUSION

In Statutes, words can be like **water** (hard to hold).
Courts use principles like Mimansa, to **bite** the
meaning correctly.