

(2018) 05 MP CK 0195

Madhya Pradesh High Court (Jabalpur Bench)

Case No: Writ Petition No. 1249 Of 2017

Chief Municipal Officer

APPELLANT

Vs

Hindustan Copper
Limited And Others

RESPONDENT

Date of Decision: May 10, 2018

Acts Referred:

- Constitution Of India, 1950 - Article 213, 343, 345, 346, 347, 348, 348(1), 348(1)(b), 348(3), 349
- Himachal Pradesh Official Language Act, 1975 - Section 5
- Madhya Pradesh Municipalities Act, 1961 - Section 2, 4, 5(1)(c), 9, 36, 126, 127, 127(A), 129, 202, 355, 356
- Madhya Pradesh Official Language Act, 1957 - Section 4
- Official Languages Act, 1963 - Section 4(1), 5
- Maharashtra Land Revenue And Tenancy Act, 1950 - Section 36

Citation: (2018) 3 MPLJ 588 : (2018) 2 JLJ 210

Hon'ble Judges: Hemant Gupta, J; Vijay Kumar Shukla, J

Bench: Division Bench

Advocate: Kishore Shrivastava, Kapil Jain, C.V. Rao, R.K. Sanghi, Namrata Agrawal

Final Decision: Dismissed

Judgement

Hemant Gupta, CJ",

1. Challenge in the present writ petition is to an order dated 21.01.2017 (Annexure P-9) passed by the learned Civil Judge, Class-I, Baihar, District",

Balaghat in Municipal Appeal No.01/2016 (Hindustan Copper Ltd. v. Chief Municipal Officer) whereby an application filed by the petitioner for,

reference to decide the question as to whether Hindi version or English version of The Terminal Tax (Assessment and Collection) on the Goods,

Exported from Madhya Pradesh Municipal Limits Rules, 1996, was ordered to be decided at the time of passing of the final order and if the Court",

finds contradictory position, then the matter would be referred to the High Court.",

2. The Terminal Tax (Assessment and Collection) on the Goods Exported from Madhya Pradesh Municipal Limits Rules, 1996 (for short the",

Rules) were published on 7.3.1997. Such Rules have been framed in exercise of the powers conferred under Section 355 read with Sections,

127 and 129 of the Madhya Pradesh Municipalities Act, 1961 (for short "the Act"). The relevant provisions of the Act read as under:-",

"127. Taxes to be imposed under this Act.-(1) For the purpose of this Act, the Council shall, subject to any general or special order which the",

State Government may make in this behalf, impose in the whole or in any part of the Municipal Area, the following taxes namely:-",

(a) a tax payable by the owners of buildings or lands situated within the city with reference to the gross annual letting value of the buildings or lands",

called the property tax, subject to the provisions of Sections 126, 127-A and 129.",

(b) a water tax, in respect of lands and building to which a water supply is furnished from or which are connected by means of pipe with municipal",

water works.,

*(b) [Deleted by MP Act No.15 of 2010 on 19.4.2010],

(c) a general sanitary cess, for the construction and maintenance of public latrines and for removal and disposal of refuse and general cleanliness of",

the city.,

(d) a general lighting tax, where the lighting of public streets and places is undertaken by the Council.",

(e) a general fire tax, for the conduct and management of the fire service and for the protection of life and property in the case of fire.",

(f) a local body tax on the entry of such goods as may be declared by the State Government by notification in the Official Gazette into the municipal,

area for consumption, use or sale therein at a rate not exceeding four percent of the value of goods:",

Provided that no local body tax shall be levied on the goods-,

(i) brought by a person into the municipal area for his personal use or consumption; or,

(ii) brought by a registered dealer within the municipal area and transmitted within 15 days thereof-,

(a) to a registered dealer in any other local body; or,

(b) in the course of export out of the territory of India; or,

(c) in the course of inter state trade outside the State.,

(iii) specified in the Schedule to the Madhya Pradesh Sthaniya Kshetron Me Mal Ke Pravesh Par Kar Adhiniyam, 1976 (No. 52 of 1976). Æ¢â,¬Â!,"

*** ***,

129. Imposition of Taxes and Fees.-,

(1) The Council may, by a resolution, at the time to final adoption of the budget estimates for the next financial year, subject to the provisions of this",

Act and subject to such limitations and conditions, as may be prescribed by the State Government in this behalf-",

(a) impose any of the taxes or fees specified in this Act; or,

(b) increase the rates of taxes or fees already imposed.,

(2) The resolution as referred to in sub-section (1) shall contain-,

(a) in case of imposition of any tax or fee, the provisions under which such tax or fee is being imposed, class of persons or description of property to",

be taxed, the amount or rate of tax or fee being imposed, system of assessment and collection to be adopted and the date from which imposition of",

such tax or fee shall take effect;,,

(b) in case of increase of rate of any tax or fee, the prevailing rate of such tax or fee, the proposed increased rate of such tax or fee and the date",

from which increase of rate of such tax or fees shall take effect.,

Such Rules are required to be laid on the table of the Assembly in terms of Section 356 of the Act, which reads as under:-",

356. General provision regarding rules-,

(1) All rule for which provision is made in this Act shall be made by the State Government and shall be consistent with this Act.,

(2) A rule may be general for all Municipalities or for all Municipalities not expressly exempted from its operation, or may be special for the whole or",

any part of any one or more Municipalities, as the State Government may direct.",

Hindi version English version:.,

7. 4

, "7. If the return is not submitted or the amount of terminal tax is not deposited

in the Municipal Treasury within the period specified in Rule-4, a surcharge

of five per cent per month shall be payable and in case of submission of

wrong return, the amount equal to ten times of the tax shall be payable:

Provided that with the approval of the State Government, the amount of

penalty may be reduced.

Emphasis supplied

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and",

(iii) of all orders, rules, regulations and bye laws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall",

be in the English language,

(2) Notwithstanding anything in sub clause (a) of clause (1), the Governor of a State may, with the previous consent of the President, authorise the use",

of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in",

that State: Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court",

(3) Notwithstanding anything in sub clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English",

language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor of the State or in",

any order, rule, regulation or bye law referred to in paragraph (iii) of that sub clause, a translation of the same in the English language published under",

the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English,

language under this article.,

12. The Madhya Pradesh Official Languages Act, 1950 [XXIV of 1950] and the Madhya Bharat Official Language Act, Samvat 2007 (67 of 1950)",

were repealed when The Madhya Pradesh Official Language Act, 1957 (for short the "Language Act") was published in the official Gazette on",

7th February, 1958. The provisions of the Act were to come into force as may be notified by the State Government in terms of Section 4 of the Act",

from time to time. Relevant extracts from the Language Act reads as under:-,

THE MADHYA PRADESH OFFICIAL LANGUAGE ACT, 1957",

4. Language to be used in Bills, etc " (1) The Language to be used in, -",

(a) all Bills to be introduced or amendment thereto to be moved in each House of the State Legislature; ,

(b) all Acts passed by each House of the State Legislature; ,

(c) all Ordinances promulgated under Article 213 of the Constitution of India; ,

(d) all orders, rules, regulations and bye-laws issued by the State Government under the Constitution of India or under any law made by the Parliament",

or the Legislature of the State; shall, on and from such date, as the State Government may, in respect of each of the items aforesaid, appoint by",

notification, be Hindi.",

(2) The form of numerals to be used in all Bills, Acts and Ordinances and all orders, rules, regulations and bye-laws mentioned in sub-section(1) shall",

be the international form of Indian numerals.,

13. In terms of sub-section (1) of Section 4 of the Language Act, the State Government has issued a Notification on 28.2.1963 appointing 1st June,"

1963 as the date on and from which the language to be used in all the items specified in the Schedule. The relevant extract reads as under:-,

Ã¢â¬Å[Notification No.1281-216-XX-CC dated 28.2.63, published in MP Gazette, Extraordinary, dt 2.3.63, p.99] Ã¢â¬ In exercise of powers conferred by",

Section 4 of the Madhya Pradesh Official Language Act, 1957 (No.5 of 1958), the State Government hereby appoints 1st June, 1963, as the date on",

and from which the language to be used in all the items specified in the Schedule shall,-",

(i) Subject to the provisions of clause (3) of Article 348 of the Constitution of India; and,"

(ii) save in respect of-,

(a) Bills which have been published in the Gazette under Rule 60 of the Madhya Pradesh Vidhan Sabha Rules prior to the said date and Acts passed,

thereof.,

(b) Amendments to Acts passed by the State Legislature prior to the said date.,

(c) Amendments to Central Acts falling in List III.,

(d) Amendments to Acts of the Bills mentioned in (a) above.,

(e) Amendments to order, rules, regulations and bye-laws made by the State Government and published prior to the said date;Schedule",

(a) All Bills to be introduced or amendment thereto be moved in each House of the State Legislature.,

(b) All Acts passed by each House of the State Legislature;,,

(c) All Ordinances promulgated under Article 213 of the Constitution of India;,,

(d) All orders, rules, regulations and bye-laws issued by the State Government under the Constitution of India or under any law made by the",

Parliament or the Legislature of the State.

14. The issue as to the conflict between Hindi version of the statutory provisions and that of English version has come before the Courts from time to,

time. Some of the judgments from Allahabad High Court are noticed hereinafter.,

15. A Division Bench of Allahabad High Court in a judgment rendered in Haji Lal Mohammad Biri Works Vs. Sales Tax Officer [AIR 1959 All 208,],

examined Article 348(1) to hold that English version of an Act in the State of Uttar Pradesh has merely a status of an authoritative text in the original,

text and that in case of conflict, Hindi Version would prevail. It was held as under:"

".....On the language of Section 3 of the 1958 Act there was some argument by Shri Jagdish Sarup, learned counsel for one of the petitioners,"

that, in this section, the expression 'in the form in which they were in force immediately before the commencement of this Act' should be read as",

qualifying the words 'the notifications' and should not be read as qualifying the expression, 'the said sections' which occurs a little earlier. To resolve",

this doubt, we went for the U. P. Gazette in which this Act was published in Hindi. Hindi has been adopted as (sic) language by the U. P. Legislature."

Under Article 348(3) of the Constitution if a Legislature of a State prescribes any language other than the English language for use in Bills introduced,

in, or Acts passed by, the Legislature of the State or in Ordinance promulgated by the Governor of the State or in any order, rule, regulation or bye-",

law referred to in paragraph (iii) of that Sub-clause, a translation of the same in the English language published under the authority of the Governor of",

the State in the Official Gazette of that State is to be deemed to be the authoritative text thereof in the English language under Article 348 of the,

Constitution.,

The English version of the Act, on the basis of which arguments were advanced before us, in this State has merely the status of an authoritative text",

in the English language of the original Act. The original Act is in Hindi and wherever there be any doubt and, in fact, principally for purposes of",

properly interpreting any provision of such an enactment, the proper course is to look at the original Act as published in Hindi. In these circumstances,"

we looked up the Hindi version of this Act. *Āĉâ,~Ā!*.*Āĉâ,~â€*,

16. The said judgment in *Haji Lal Mohammad Biri Works* (supra) was approved by the Constitution Bench in a judgment rendered in *M/s JK Jute,*

Mills Company Limited Vs. The State of UP and other (AIR 1961 SC 1534) wherein the Supreme Court held as under:-,

Āĉâ,~Ā"It should further be noted that the Validation Act was published both in Hindi and in English, and both of them were authorised versions. The",

words in the Hindi version make it clear beyond all doubt that the words, ""in the form in which they were in force immediately before the",

commencement of this Act"" qualify the word ""sections"" and not the word ""notifications"". That is the view expressed by a Bench of the Allahabad High",

Court in *H. L. M. Biri Works v. Sales Tax Officer*, AIR 1959 All 208, on a comparison of the two versions, and we are in agreement with it. There",

would have been no scope for this argument if transposing the 'words, the section read, ""as if the said sections were, in the form in which they were in",

force immediately before the commencement of this Act, in force on the date on which the notifications were issued."" But even in its present setting",

that is the meaning of the section, and the impugned notification must be held to be within the saving of the Validation Act. *Āĉâ,~â€*",

17. The Full Bench of Allahabad High Court in *Jaswant Sugar Mills Limited* *Āĉâ,~â,,ĉs* case (supra) held that both the Hindi and the English versions are,

authorised and both of them can be looked into and put to official use and it is only in a case of divergence in the two versions that the English version,

may reign supreme.,

Āĉâ,~Ā"8.*Āĉâ,~Ā!*...*Āĉâ,~Ā!**Āĉâ,~Ā!* From what I have said above, it is clear that both the Hindi version as also the English translation of a Bill, Act, etc., are valid. There",

is no competition between the two. It is only in case of conflict or divergence between the two versions that the question of authoritative text comes,

in.,

The view that I am taking finds support from a Division Bench decision of this Court in the case of *Haji Lal Mohammad Biri Works v. Sales Tax,*

Officer, AIR 1959 All. 208; (1959) 10 STC 424, and the decision of their Lordships of the Supreme Court in *J.K. Jute Mills Co., Ltd. v. State of Uttar*",

Pradesh, (1961) 12 STC 429 at p. 435; (AIR 1961 SC 153 4at p. 1538), where the Allahabad case mentioned above was approved of. In the Supreme",

Court case the Validation Act was published both in Hindi and in English. A question arose as to whether the Hindi version could be used to clear,

what appeared to be ambiguous in the English version, and their Lordships observed as follows:",

“It should further be noted that the Validation Act was published both in Hindi and in English, and both of them were authorised versions. The",

words in the Hindi version make it clear beyond all doubt that the words, “in the form in which they were in force immediately before the",

commencement of this Act” qualify the word “sections” and not the word “notifications.” That is the view expressed by a Bench of,

the Allahabad High Court in AIR 1959 All 208 on a comparison of the two versions, and we are in agreement with it.”,

9. In view of these weighty pronouncements it can no longer be a matter of dispute that both the Hindi and the English versions are authorised and,

both of them can be looked into and put to official use. For these reasons, with the greatest respect to the learned Judges who decided the case, I am",

unable to agree with the decision in the case of 1961 All LJ 506. A Division Bench of the Madhya Pradesh High Court in the case of *Govindram*,

Ramprasad v. Assessing Authority, AIR 1958 Madh Pra 16, took the view that though the English version was the authoritative one within the",

meaning of Article 348(1) Sub-clause (b) paras (ii) and (iii), the Hindi version could also be resorted to when the English version was ambiguous. I",

have already said above that both the English version and the original Act, ordinance, bye-law etc., passed in Hindi are full fledged laws and it is only",

in a case of divergence in the two versions that the English version may reign supreme.Ã¢â¬â¢,

18. The matter was again considered by Five Judges Bench of the Allahabad High Court in a judgment reported asS mt. Ram Rati and others Vs.,

Gram Samaj, Jehwa and others (AIR 1974 ALLAHABAD 106). Relevant extract reads as under:",

Ã¢â¬â¢10. The other argument is that in Clause (3) of Article 348 the use of words ""notwithstanding anything in Sub-clause (b) of Clause (1)"" suggests",

that this clause will override Clause (1). This interpretation is not correct. It only means that a State Legislature may prescribe any language other,

than the English Language for use in Bills introduced in or Acts passed by the State Legislature and that Clause (1) (b) shall not create an impediment,

in its way. As we have already indicated above, when a Bill is introduced or an Act is passed in a language other than the English language by a State",

Legislature, an authoritative translation thereof in the English language has to be provided and that translation shall for the purposes of Clause (1) (b)",

be deemed to be the authoritative text thereof. Indeed, it will be beyond the competence of a State Legislature to provide that the authoritative text of",

its Act and Ordinance etc., shall be in a language other than the English language, because such a power vests only in the Parliament. Thus, when",

there is a conflict between the English version of a Statute of a State Legislature and its version in a local language, the version in English language",

will prevail over the version in the local language. A Division Bench of this court in Saghir Ahmad v. Govt. of the State of U. P., AIR 1954 All 257",

while referring to Article 348 of the Constitution has at page 278 in paragraph 83 observed:--,

In view of this provision of the Constitution the notification appearing in English must prevail over the notification appearing in Hindi.""",

A Full Bench of this Court in *Jaswant Sugar Mills Ltd., Meerut v. Presiding Officer, Industrial Tribunal (III) U. P. Allahabad*, AIR 1962 All 240 (FB)",

has held that in U. P. after the passing of the U. P. Acts No. 1 of 1950 (U. P. Language Bills Act) and 26 of 1951 (U. P. Official Language Act) the,

State Legislature has prescribed Hindi as the language for the official use in the State, and both, the Hindi version as also the English translation of a",

Bill or Act etc., published in the Official Gazette are valid and authorised and both of them can be looked into and put to official use. There is no",

competition between the two. It is only in case of conflict or divergence between the two versions that the English version may reign supreme and,

supersede the Hindi one. Following this Full Bench decision a learned Single Judge in *Municipal Corporation Agra v. Gulzari*, AIR 1965 All 170 has",

held that although Hindi was the official language of the State of U. P., in case of divergence between the Hindi and the English versions, of the",

official gazette the English version reigned supreme and superseded the Hindi version. The same view has been taken by the Rajasthan High Court in,

Bhikam Chand v. State, AIR 1966 Raj 142 and the Madhya Pradesh High Court in *M/s Govindram Ram Prasad v. Assessing Authority (Sales Tax)*",

AIR 1958 Madh Pra 16.,

11. This being the position we are clearly of the opinion that in the present case it is the English text which shall prevail over the Hindi version and,

according to the English text the expression ""any holding"" occurring in Clause (ii) of Section 5 (1) (c) of the Act does not include the ""Whole holding""",

so that it is not necessary to obtain the permission of the Settlement Officer (Consolidation) for the transfer of the holding as a whole.Ã¢â¬â¸,

19. Learned counsel for the petitioner relied upon the Full Bench of the Allahabad High Court in *Jaswant Sugar Mills Limited* (supra) and *Smt. Ram*,

Rati (supra) without realizing that both the judgments stand over-ruled by the later Seven Judges Full Bench judgment in the case of *Mata Badal*,

Pandey-I, wherein the Court considered the question Ã¢â¬â¸“whether it will be a sound rule of interpretation or construction of statutes that if there",

appears to be some doubt or ambiguity in the authorized text in English language of an Act enacted in Hindi by the Legislature of Uttar Pradesh, then",

for resolving the ambiguity or doubt and for ascertaining the correct meaning thereof, reference can be made to the corresponding Hindi text and",

reliance placed thereon. The relevant extract from the order reads as under:

"10. Whenever there exists an ambiguity in an enactment, well established rules of interpretation are applied to find out the intention of the",

Legislature. Whenever the question arises whether the word 'and' used in the provision should be read as 'or' or vice versa, the question",

is one of doubt or ambiguity. But, where, the words are unambiguous, no question of interpretation thereof really arises.",

11. We are, therefore, of opinion that where there is some doubt of ambiguity in any provision in the authoritative English text, it is permissible to look",

into the Hindi text to remove the doubt or ambiguity. We accordingly answer the question referred to this Bench in the affirmative.

In a separate but concurring order recorded by Hon'ble Shri Justice K.B. Asthana, the Court held as under:"

"12. I have had the advantage of reading the opinion of the learned Chief Justice. While agreeing with him in answering the question referred in the,

affirmative, with profound respect, I am unable to endorse to the full extent the approach and the reasoning adopted by the learned Chief Justice,"

hence I would like to add few words of my own.,

13. To my mind, the question as framed by the referring Bench necessarily involves resolving of the controversy that has arisen in our Court in regard",

to the prevalence of the authorised translation in English language of an Act of the Uttar Pradesh Legislature under Article 348 of the Constitution,

over the Hindi text of the same which is the language prescribed by law for the U.P. Legislature. When there is an apparent conflict or diversion,

between the text as translated in English language and the Hindi text because of the words in English used by the Translator a question will always,

arise whether Hindi text truly manifests the intention of the Legislature or the English translation thereof. Article 348 of the Constitution does not lay,

down any rule of preference of the English version over the Hindi text. Its effect is to give the status of a Statute to the English translation of the Hindi,

Act. Both would be the authorised text of the law. The translation in English will have the same effect as a Statute duly enacted by the legislature.,

The Hindi language in which the law was actually enacted by the Legislature does not lose its force and efficacy. Article 348 of the Constitution,

does not wipe the Hindi text out of existence in the event of the translation thereof in English language is published in the Government Gazette under,

the authority of the Governor. While administering the law the Court cannot be asked to give a blind eye to the Hindi text and be permitted only to see,

the English translation thereof. This being the position, the conflict or diversion arising because of the English translation, in my view, will be of no",

consequence as the rights of the parties still could be determined on the basis of the Hindi text of the law as that is primarily the document from which,

the true intention of the Legislature would be manifest. I have difficulty in subscribing to the view that the English version will prevail over the Hindi,

version in case of conflict or diversion in the language used as that would amount to the Translator making the law and not the Legislature. There is no,

warrant for such a proposition flowing from Article 348 of the Constitution. With great respect to the learned Judges who have taken such a view, I",

would say they have proceeded on a mere assumption and thus arrived at an erroneous result. The task of an interpreter is to find out the true,

intention of the Legislature from the words used by it. The Legislature uses Hindi words. The text of the law in Hindi, therefore, must be seen to find",

out the true intention of the Legislature. The only effect of Article 348 of the Constitution is that the authorised translation of the Act into English,

language will also be deemed to depict the same intention of the Legislature as depicted by the Hindi text. This functional approach appears to me the,

only proper approach. Certainly it will be against all canons of interpretation of Statutes if merely by relying on English translation the law is,

administered and the result arrived at is contradictory or different to that which the Hindi text of the law manifests. To avoid the perils of the,

ephemeral doctrine of preference, in my judgment, the only correct answer to the problem that poses itself in such a situation is to adopt a rule of",

interpretation that in the English translation of the Hindi text of the Act whenever there appears a doubt on a plain reading of the English words as to,

the true intention of the Legislature, call it a conflict, diversion or ambiguity, the Hindi text will be the key for finding the answer. It is in this light the",

question referred is to be understood and answered.,

14. With respect I, do not think any further question as contemplated by the learned Chief Justice needs to be referred again to a larger Bench. I have",

no doubt in my mind that the decision of the learned five Judges in Smt. Ram Rati v. Gram Samaj, Jehwa and others 1974 RD 163 is erroneous and",

does not lay down the correct law. The correct rule is laid down by this Court in the Division Bench decision in Haji Lal Mohammad Birl Works",

Meerganj, Allahabad and others v. The Sales-tax officer, Allahabad, AIR 1959, Allahabad 208, as approved by the Supreme Court in M/s. J.K. Jute",

Mills Co. Ltd. v. State of Uttar Pradesh and another, AIR 1961, Supreme Court, 1534.",

The order of the Court is as under:-,

“16. We are of the opinion that where there is some doubts or ambiguity in any provision in the authoritative English text, it is permissible to look",

into the Hindi text to remove the doubt or ambiguity. We accordingly answer the question referred to this Bench in the affirmative.¶

20. The said judgment was again examined by another Three Judges Full Bench of the Allahabad High Court in a judgment rendered in Mata Badal,

Pandey-II (supra). The Court quoted from the Seven Judge Full Bench when it held as under:-,

“29. Then an argument was made on behalf of respondent Zamindar to interpret Sec. 9 in the manner that the phrase “attachment and sale”

occurring in the Section be read as "attachment or sale". This court repelled the argument in the cases of *Bhawani Shanker v. Govind Das*,

(1962 All LJ 223) and *Kunwar Kishori Saran v. Gauri Shanker* (1972 All LJ 875) (supra). These decisions were rendered before the controversy in,

this Court as to the competition between Hindi version of the Statute and its authorised English translation was still unsettled. In the instant case itself,

on behalf of the appellant-creditors it was submitted that the English version must prevail and be regarded as supreme as held by the Full Bench of this,

Court in the case of *Smt. Ram Rati v. Gram Samaj* (AIR 1974 All 106) (FB) (supra).,

The Supreme Court in the case of *J.K. Jute Mills v. State of U.P.* (AIR 1961 SC 1534) (supra) specifically approved the principle of interpretation laid,

down by this Court in the case of *Haji Lal Mohammad Bidi Works v. Sales Tax Officer* (AIR 1959 All 208) (supra) that if there was an apparent,

ambiguity in the translation of the Act enacted in Hindi then that can be resolved by making use of the Hindi text. We doubted the correctness of the,

Full Bench case of *Ram Rati v. Gam Samaj* (AIR 1974 All 106) (FB) (Supra). The matter was then referred to a Full Bench of seven Judges, which",

has now declared that where there is some doubt or ambiguity in any provision in the authoritative English text, it is permissible to look into the Hindi",

text to remove the doubt of ambiguity. Since in the Hindi version, the phrase used is "kurki Ya Neelam", the ambiguity in the English",

authoritative text due to use of the conjunction "and" which ambiguity was canvassed before the two Division Benches of this Court but now,

we can resolve it by taking recourse to the Hindi text and it would be legitimate to read the phrase in the authoritative English text as "attachment or,

sale". The legislature itself has used such phrase in Sec. 19(2) and (6) of the 1934 Act.

21. The issue as to the conflict between Hindi version of the statutory provisions and that of English version has also come before this Court time and,

again. One of the earliest judgment of this Court is rendered in *Messrs. Govindram Ramprasad Vs. Assessing Authority (Sales Tax)* [AIR 1958 M.P.,

16] in respect of Madhya Bharat Sales Tax Act, Samvat 2007 (30 of 1950). However, the said judgment deals with a statute prior to the enactment of",

the Languages Act. The Hindi version was relied upon which was not an authoritative one. The relevant extract reads as under:,

“9. An explanation of the definition of 'turnover' in the light of the definition contained in Section 2 clearly shows that the word 'sold' is not,

qualified by the words ""for the payment received in respect of a contract"" though it is qualified by the words ""by a dealer"". Shri Sanghi said that at best",

there is a doubt and we should, therefore, go to the Hindi version. The Hindi version which is not the authoritative version undoubtedly reverses the",

order in which the words are used. On a reading of Hindi version it is plain that the words ""supplied for the payment received in respect of a contract""",

or their equivalent are meant to cover not only ""sold"" but also ""supplied"". Mr. Sanghi referred to an observation in Crawford's 'Statutory Construction'",

at page 350 (Section 202) where it is said that if there be two versions of a statute in two different languages one version can be used to interpret the,

other.,

The cases on which this observation is based have, unfortunately, not been brought to our notice. It is, however, common knowledge that in Canada",

statutes are passed both in English and in French and there are cases of their Lordships of the Privy Council in which assistance of one version is,

taken to interpret the other version. This has also been done in connection with the cases from some of the Middle East countries where a statute is to,

be found both in French and in Arabic.,

However, those cases cannot be an authority for using the same doctrine in our country where the Constitution under Arts. 348 and 349 has clearly",

provided that where laws are passed in an Indian language and are translated into English, the authoritative version shall be the English. No doubt if",

there was any ambiguity, resort could be had to extraneous aid which might have included the Hindi version, but, in our opinion, the matter is so plain",

and the grammar and the sense of the thing so clear that it is not necessary to go to the Hindi version at all. When one contrasts the definition of "sale",

with the definition of "contract", it is quite clear that the latter part of the definition of 'turnover' i.e., the nine words following "supplied" are meant to,

qualify "supplied" only. ¶ 22. The Full Bench of this Court in Mangilal Suratsingh's case (supra) was dealing with interpretation of Madhya,

Bharat Revenue Administration and Ryotwari Land Revenue and Tenancy Act, Samvat 2007, as amended by Act No.18 of 1952 (Samvat 2009)],

substituting the provision of second appeals. The State Act was enacted after Hindi was adopted as the official language of the State by the erstwhile,

State of Madhya Bharat by enacting the Madhya Bharat Official Language Act, Samvat 2007 (No 67 of 1950).",

¶ 5. In view of the aforesaid decision of the Supreme Court, it must be held that where Hindi has been adopted as a language by the Legislature",

of a State, Hindi and English are both authorized versions, and it is permissible to rely on the Hindi version in case of a doubt.",

6. In view of the aforesaid, decision of the Supreme Court, it is really not necessary to refer to the various decisions referred to by the learned counsel",

for the petitioner. In AIR 1957 M.P. 1 (supra), the question for consideration was whether as provided by the proviso to Article 345 of the",

Constitution, the M B. Official Language Act prohibited the continuance of the English language for those official purposes within the State for which",

it was being used immediately before the commencement of the Constitution. It was held that the M. B. Official Language Act did not purport to be,

and was not a law prohibiting the continuance of the English language for those official purposes in the State for which it was being used immediately,

before the commencement of the Constitution. The decision in AIR 1957 M.P. 1 (supra) is, therefore, clearly distinguishable on facts.",

7. In our opinion, in view of the facts that in the erstwhile State of Madhya Bharat, Hindi was prescribed as the language for use in Acts passed by",

the State Legislature, and that the Legislative intent was accordingly expressed in the Hindi version of Act no. 18 of 1952 amending Section 36 of the",

Act, the contention urged on behalf of the petitioners that it was not permissible to refer to the Hindi version of the Act. cannot be upheld.",

xxx xxx xxx,

9. For all these reasons, our answer to the question referred to the Full Bench is that the restrictions placed on the powers of the second appellate",

Courts under Section 36 of the M. B. Land Revenue and Tenancy Act apply not only to second appeals preferred before the Board of Revenue but,

also to second appeals preferred before the Commissioner and Settlement Commissioner.Ã¢â¬â¸,

23. A Single Bench of this Court in the case of Satyabhan Singh Jadon (supra), has held as under:-",

Ã¢â¬â¸7. By virtue of Section 4 of the Act, Hindi has been prescribed as a language to be used in all the Bills, Acts, Ordinances, Rules and Regulations",

as mentioned above, in the State Government, the Hindi text shall be deemed to be authenticated. English translation of Hindi Rules cannot override",

the original Hindi text. Looking to the provisions of Section 4 of the Act, English translation cannot prevail upon the original Hindi text. If there is any",

conflict between English version and Hindi version of the notification, notification in Hindi shall prevail over the English version. Since Under Section 4",

of the Act, the notifications are published in Hindi and English and both of them are authenticated one, the Hindi version shall prevail over English",

version by virtue of Section 4 of the Act. If there is any advertence in the translation in the English, it would be just and proper that Hindi version",

should be followed.Ã¢â¬â¸,

24. The matter again came for consideration before the Full Bench of this Court in Technofab Engineering Limited Vs. Bharat Heavy Electricals,

Limited and others [2015 (4) MPLJ 426]. The Court held as under:,

Ã¢â¬â¸23. The Full Bench of our High Court in the case of M angilal and another vs. Board of Revenue, M.P. and others, 1983 MPLJ (FB) 254=1983",

JLJ 385 (Full Bench) has authoritatively held that after the enactment of the Madhya Pradesh Official Language Act, 1957, the Hindi version",

published, be relied in a case of doubt. The Full Bench has considered the provisions of the Madhya Pradesh Official Language Act as also Article",

345 of the Constitution of India while answering the question considered in that behalf.,

24. Our attention was invited to the decision of the Division Bench of our High Court in the case of V. Ikram Singh and others vs. Collector, Dewas and",

others, 1989 MPLJ 817=1989 JLJ 675. This decision, no doubt, refers to the exposition of the Full Bench in the case of Mangilal (supra) but has",

distinguished the same on the ground that the Court was concerned with a notification and not question of any interpretation involved in it. Āĉâ,–â€œ,

25. The Division Bench of Himachal Pradesh High Court in the case reported as Gauri Devi Vs. State of HP and another, CWP No.393/2002 decided",

on 25.6.2002 has held as under:.,

Āĉâ,–Ā“12. After having heard the learned counsel for the parties and after having gone through the legal position as well as Article 348(3) of the,

Constitution of India, we feel that it is only the language in which the bill was introduced in the Legislature and was passed, that version needs to be",

followed. In the event of there being any conflict between the two versions, it is the former that will prevail and not other way round as was urged by",

Shri Sharma.,

Xxx xxx xxx,

14. For the purpose of present writ petition, sub-clause (3) of this Article is relevant. With the passing of the HP Official Language Act, 1975 and",

issuance of notification under Section 5 thereof in 1979, Hindi was the language used in the Amending Bill in which the bill was introduced and the Act",

was also passed in the same language.,

15. Authoritative English text in no case can be at a higher position than the original Act itself which is published under the authority of law and in no,

case such Authoritative English Text can be put to either defeat the object sought to be achieved by the proposed amendment or to negate the,

provisions as it existed in the language in which the bill was introduced and Act passed. There can be situations where Authoritative English Text may,

be faulty because of inadvertent and bonafide mistake. "It is not,

26. Learned counsel for the petitioner relies upon a Supreme Court judgment rendered in the case of Nityanand Sharma (supra) wherein a question,

arose: whether the schedule under the Scheduled Castes and Scheduled Tribes Orders (Amendment Act), 1976, the Hindi version would prevail. It",

was held that the Court would take judicial notice of the Acts of Parliament and would interpret the Schedule in the light of the English version being,

an authoritative text of the Act and the second Schedule. The said judgment has no applicability to the facts of the present case, which was dealing",

with a Central Act. In terms of Article 343 of the Constitution of India, the official language of the Union is Hindi but in terms of Sub-Clause (2), the",

English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such,

commencement. The Official Language Act, 1963 has been enacted by the Union wherein the English continues to be the language for all official",

purposes of the Union even after expiry of 15 years. Section 5 of the said Act of 1963 requires a translation in Hindi to be published under the,

authority of the President in the official gazette. Therefore, Parliamentary statutes are in English whereas the authorised version is in Hindi, which is a",

case of reverse proposition than what is in the present case. Similarly, the decision of the Supreme Court rendered in the case of Prabhat Kumar",

Sharma (supra) is again a case of Constitution (Scheduled Tribes) Order 1950 as amended by the Scheduled Castes and Scheduled Tribes Order,

(Amendment) Act, 1976. Since the said judgment again pertains to Central Act, which is required to be in English though the translation has to be in",

Hindi. Therefore, the said judgment is not applicable to the facts of the present case.",

27. We are unable to agree with the learned counsel for the petitioner that in case of conflict between Hindi version and the English version, it is the",

English version which will prevail in terms of Clause 3 of Article 348. As per Section 4 of the Language Act, the bills introduced in the State",

Legislature; the Acts passed by each House of the State Legislature; all orders, rules, regulations and bye-laws are published in Hindi. The bills are",

introduced in Hindi, passed in Hindi and assented to by the Hon'ble Governor. The language of the bill is in Hindi. In terms of Article 348, the",

translation is required to be published in English language under the authority of the Hon'ble Governor in the official gazette, which is deemed to",

be an authoritative text in the English language. Thus, the authoritative text prepared in terms of sub-clause (3) of Article 348 is not an authoritative",

text discussed and resolved by the State Legislature, but is an action performed by the Executive in exercise of the administrative powers of the State.",

The English version is not discussed by the State Legislature. Therefore, the Act has been passed in Hindi which is a Legislative action whereas the",

authoritative text in English is an Executive action. Therefore, in case of conflict between the two, the Legislative enactment will prevail rather than an",

Executive action of translation though published under the authority of the Hon'ble Governor. Such is the view taken by the Himachal Pradesh,

High Court as well.,

28. The argument of the learned counsel for the petitioner is that Article 348 was not referred to by Full Bench of this Court in Mangilal,

Suratsingh's case (supra). However, the Court has approved and followed the Division Bench judgment in Haji Lal Mohammad Biri Works",

(supra), which judgment was approved by the Hon'ble Supreme Court in M/s JK Jute Mills Company Limited's case (supra). Therefore, even",

though the Full Bench judgment has not specifically referred to Article 348, but when this Full Bench followed the judgment of Allahabad High Court",

wherein Article 348 was discussed, this Court has impliedly considered Article 348 as well.",

29. Still further, the entire issue is the Authorized Version in English of a statute in Hindi. Article 345 empowers the State to adopt any one or more",

languages in the State or Hindi as a language or cause to be used for all or any of the official purposes of the State. The Language Act has been,

enacted in terms of Article 345 of the Constitution, but the authorized version of a statute in English is prescribed to be only in terms of sub-clause (3)",

of Article 348. Therefore, when the Full Bench of this Court in Mangilal Suratsingh's case (supra) and Technofab Engineering Limited's case",

(supra) have considered the conflict between the statute in Hindi and Authorized Version in English, the Court was conscious of the Article 348 of the",

Constitution.,

30. In view of the aforesaid judgments, we find that the language of the State being Hindi and the Act having been passed in Hindi, the English version",

of such text in Hindi is an act of the Executive, which will not prevail over the legislation enacted by the State Legislature in Hindi. Therefore, in case",

of conflict between Hindi version and the English version, the Legislative version would prevail rather than the authorized version published under the",

authority of the Hon'ble Governor as an Executive function.,

31. In view thereof, we do not find any merit in the present petition. The same is dismissed.",