

THE EMIGRATION ACT, 1983
(Act 31 of 1983)

[10th September, 1983]

An Act to consolidate and amend the law relating to, appoint and different dates may be appointed for different provisions of this Emigration of citizens of India.

Be enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:

CHAPTER I

Preliminary

1. Short title, extent, application and commencement. – [1] This Act may be called the Emigration Act, 1983.
2. It extends to the whole of India and applies also to citizens of India outside India.
3. It shall come into force on such date² as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Comments

Preamble. – It is established law that preamble discloses the primary intention of the statute but does not override the express provisions of the statute.³

Interpretation of statute – In the past, the golden rule was to interpret a statute according to grammatical and ordinary sense of the word, but now the Court has to look for the intention of the Legislature or the purpose of the statute.⁴

Any interpretation of a statute which will obviate purposeless proliferation of litigation, without whittling down the effectiveness of the protection for the parties sought to be helped by the Legislation, should be preferred to any literal, pedantic, legalistic or technically correct alternative.⁵

Principal of harmonious construction- It is settled rule of interpretation that all the provisions would be read together harmoniously so as to give effect to all the provisions as a consistent whole rendering no part of the provision as surplusage.⁶

1. Received the assent of the President, on 10th September, 1983, published in the Gazette of India, Extraordinary, Pt. II, Sec. 1, dated 13th September, 1983.
2. With effect from 30th December 1983, vide S.O. 940 [E]. Dated 30th December 1983.

COMPETENT AUTHORITY, GUJRAT HOUSING BOARD V. DHAMJI VIJINDRA MEHTA, A.I.R. 1997 GUJ. 106 AT P. 112: U.P. STATE ELECTRICITY BOARD V. DISTRICT

EMIGRATION ACT, 1983

Construction of statute - In the matter of construction of statute, the cardinal principle applicable has to be borne in mind that if the Legislature has provided some powers to a statutory body or management, by necessary implication it has to be presumed that anything which is necessary for the purpose of carrying out the purpose of the Act has to be done.¹

Definitions - In this Act, unless the context otherwise requires, -

"Certificate" means a certificate of registration issued under Sec.11.

"Conveyance" includes a vessel, vehicle, country-craft and an aircraft;

"Dependent" means any person who is related to an emigrant and is dependent on that emigrant;

"Emigrant" means any citizen of India who intends to emigrate, or emigrates, or has emigrated but does not include-

- (i) a dependent of an emigrant, whether such dependent accompanies that emigrant, or departs subsequently for the purpose of joining that emigrant in the country to which that emigrant has lawfully emigrated;
- (ii) any person if who has resided outside India at any time after attaining the age of eighteen years, for not less than three years or the spouse or child of such person;

"Emigrant Conveyance" means any conveyance specially chartered for conveyance of emigrants or for conveying emigrants exceeding such number as may be prescribed:

Provided that the Central Government may, by notification, declare that any conveyance, conveying emigrants to such place as may be specified in notification shall not be deemed to be an emigrant conveyance;

"Emigrate" and **"Emigration"** mean the departure out of India of any person with a view to taking up any employment (whether or not under an agreement or other arrangements to take up such employment and whether with or without the assistance of recruiting agent or employer) in any country or place outside India;

"Employer" means any person providing or offering to provide employment in any country or place outside India;

"Employment" means any service, occupation or engagement (not being service, occupation or engagement under the Central Government or a State Government), in any kind of work within the meaning of CI. (o), for wages or for reward, and all its grammatical variations and cognate expressions shall be construed accordingly ;

"Notification" means a notification published in the Official Gazette;

"Prescribed" means prescribed by rules made under this Act;

"Protector of Emigrants" means a protector of Emigrants appointed under Sec. 3 and includes a person authorized under Sec. 5;

"Recruiting Agent" means a person engaged in India in the business of recruitment for an employer and representing such employer with respect to any matter in relation to such recruitment including dealings with persons so recruited for desiring to be so recruited;

“Recruitment” includes the issuing of any advertisement for the purpose of recruitment., the offering by advertisement to secure or assist in securing any employment in any country or place outside India and the entering into any correspondence, negotiation, agreement or arrangement with any individual for or in relation to the employment of such individual in any country or place outside India:

“Registering Authority” means the officer appointed under Sec.9 to be the registering authority for the purpose of this Act;

“Work” means

- ❖ any unskilled work, including any form of industrial or agricultural labour;
- ❖ any domestic service;
- ❖ any service, not being a service in a managerial capacity in any hotel, restaurant, tea-house or other place of public resort;
- ❖ work as a driver or a truck or other vehicle,, mechanic, technician or skilled labourer or artisan;
- ❖ work as an office assistant or accountant or typist or stenographer or salesman, or nurse or operator f any machine;
- ❖ work in connection with, or for the purpose of, any cinema, exhibition or entertainment;
- ❖ any such work of a professional or of any other nature as the Central Government may, having regard to the need for the protection of citizens of India, who may be employed in such work outside Indian and other relevant circumstances, specify by notification;

Provided that the Central Government may, if satisfied that it is necessary so to do having regard to the conditions of service a applicable with respect to employment in any of the afore-mentioned categories of work or any sub-category thereof, whether generally or in relation to any particular that such category of work or sub-category of work shall not be deemed to be work within the meaning of this definition.

Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

Comments

This section defines the various expressions occurring in the Act, It has been laid down that any reference in this Act to any law which is not in force shall be construed as a reference to the corresponding law in force.

Interpretation of section. – The Court can merely interpret the section, it cannot re-write, re-cast or re-design the section.

The words “unless the context otherwise requires” – Expression of. – Where the definition or expression, as in the instant case, is preceded by the words “unless the context otherwise requires” the said definition set out in the section is to be applied and given effect to but this rule, which is the normal rule may be departed from if there be something in the context to show that the definition could not be applied.