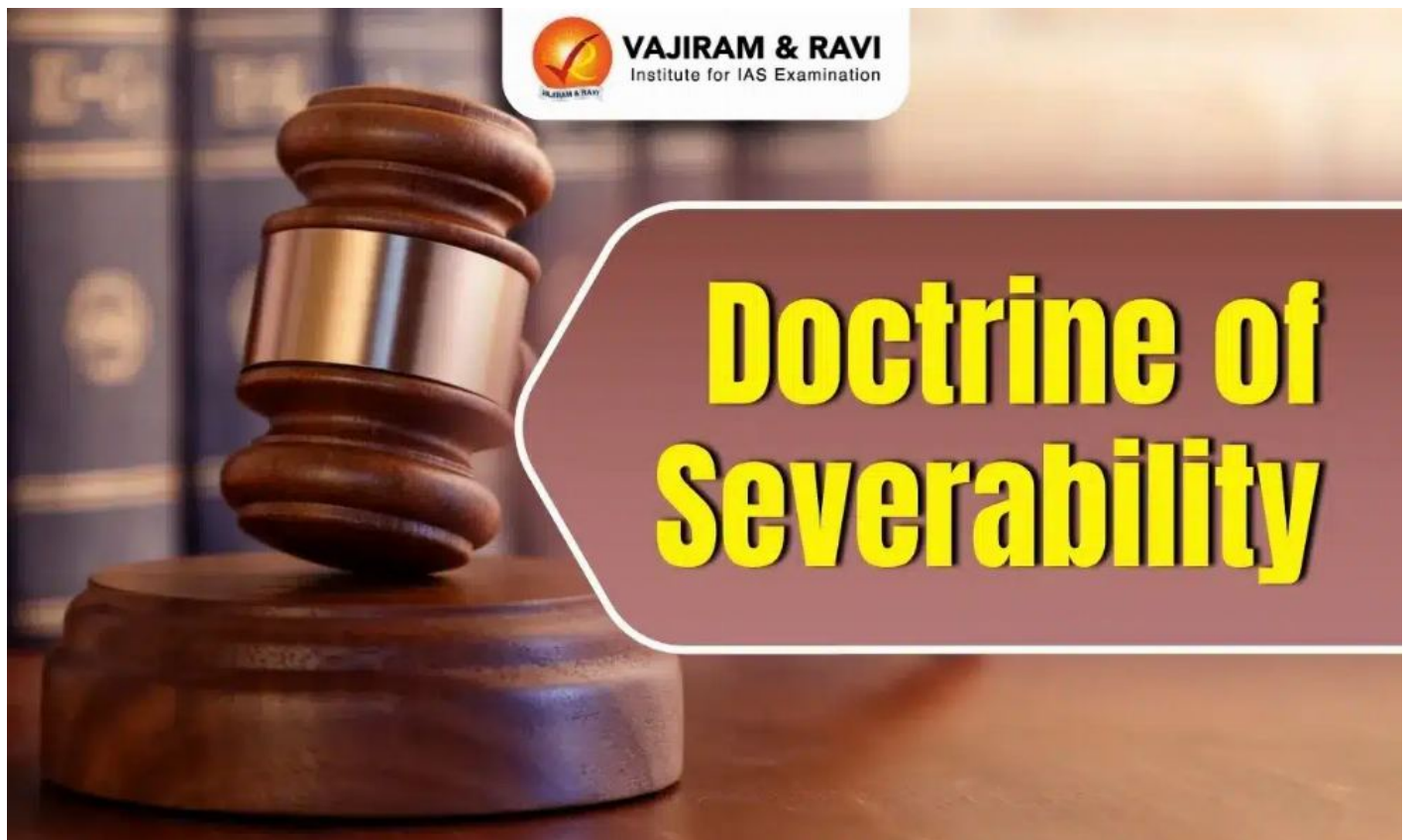


Doctrine of Severability

November 2, 2025 • vajiramandravi.com



Doctrine of Severability Latest News

The Supreme Court clarified that the Doctrine of Severability is applicable in Suits for Specific Performance, but only in exceptional cases.

About Doctrine of Severability

- It is a fundamental legal principle that plays a crucial role in **addressing the constitutionality of laws when some provisions are inconsistent with the Fundamental Rights** guaranteed by the Constitution.
- **In such cases, only the conflicting or repugnant part of the law will be considered void** by the courts, **not the entire statute.**
- In simpler terms, if a specific part of a law violates the Constitution but can be separated from the rest of the law without affecting its functionality, only that problematic part will be removed, not the entire law.
- Another aspect of the doctrine of severability is that **if a law combines good and bad provisions using words like 'and' or 'or,' and the enforcement of the good provision does not depend on the bad**

one, they are considered severable.

- The **good provision will be upheld and enforced** even if the bad one cannot or does not exist.
- On the other hand, **if there's a provision that can be used for both legal and illegal purposes, it is invalid** and cannot be allowed even for legal purposes.
- The **court will declare the entire Act as void if the valid and invalid portions are so intertwined that they cannot be separated.**
- It is also called the **doctrine of separability.**

Landmark Cases on Doctrine of Severability

- **A.K Gopalan vs State of Madras:** The **court held that if the preventive detention provision (section 14) was removed, the rest of the Act would remain valid** and effective. The violative part was separable from the valid part.
- **Minerva Mills vs Union of India:** The court **struck down section 4 of 55 of the 42nd Amendment Act, 1976**, as it **exceeded the amending power of Parliament**. However, the remaining provisions of the Act were upheld and considered valid.
- **Kihoto Hollohan vs Zachillhu:** The court **declared paragraph 7 of the Tenth Schedule (inserted by the 52nd Amendment Act of 1985) unconstitutional**. However, the rest of the Tenth Schedule, excluding paragraph 7, was upheld and considered constitutional.

Source: **VERD**

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