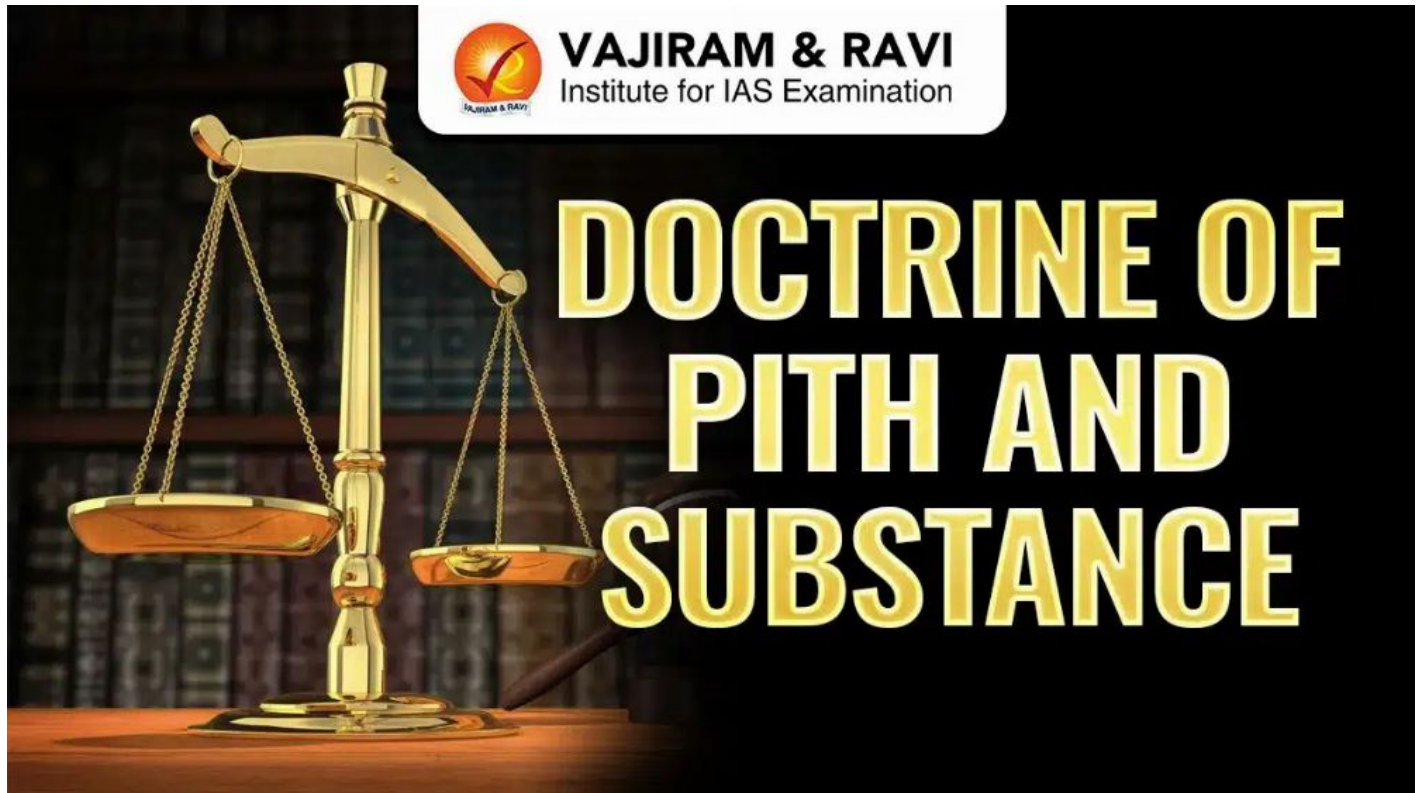


Doctrine of Pith and Substance, Evolution, Landmark Case Laws

December 18, 2025 • vajiramandravi.com



The Doctrine of Pith and Substance is a judicial principle used to determine the true nature of a law when its constitutional validity is challenged. If a law's main purpose falls within the legislative competence of the body that enacted it, the law remains valid even if it incidentally overlaps with matters outside its jurisdiction.

This doctrine ensures that laws are judged based on their **dominant objective (pith)** rather than minor incidental effects (**substance**). It helps maintain a **balance between Union and State powers** under India's federal system.

Doctrine of Pith and Substance Evolution

The Doctrine of Pith and Substance originally developed in **Canada** under disputes between federal and provincial laws. It was later adopted in India to resolve conflicts between **Union and State legislative powers**.

In India, after the **Constitution of India, 1950**, courts used this principle to interpret **Articles 245 and 246** along with the **Seventh Schedule**. The doctrine has evolved to ensure that **minor overlaps in legislative powers do not invalidate important laws**, supporting smooth governance within India's quasi-federal system.

Doctrine of Pith and Substance vs Doctrine of Colourable Legislation

The Doctrine of Pith and Substance focuses on the true nature and dominant purpose of a law to uphold its validity despite incidental overlaps. In contrast, the Doctrine of Colourable Legislation examines whether a legislature has disguised its lack of power to bypass constitutional limits.

Feature	Doctrine of Pith and Substance	Doctrine of Colourable Legislation
Focus	True nature and main purpose of the law	Legislative intent and misuse of power
Test	Substance over form	Indirect use of power to bypass limits
Effect	Law is upheld if main subject is valid	Law is struck down if power is abused
Purpose	Maintains federal balance	Prevents legislature from acting beyond competence
Key Question	What is the dominant subject of the law?	Is the legislature acting fraudulently or indirectly?

Constitutional Basis of the Doctrine in India

The Doctrine of Pith and Substance is not explicitly mentioned in the Constitution, but it has a strong constitutional foundation derived from several provisions:

- **Article 245** - Defines the extent of laws made by Parliament and State Legislatures, giving them the power to make laws within their territory.
- **Article 246** - Deals with the distribution of legislative powers between the Union and the States through the Union List, State List, and Concurrent List.
- **Seventh Schedule** - Specifies subjects under Union, State, and Concurrent jurisdiction, allowing for minor overlaps.

Landmark Case Laws on Doctrine of Pith and Substance

1. State of Bombay v. F.N. Balsara (1951)

The Bombay Prohibition Act was challenged for encroaching upon trade and commerce, a Union List matter. The Supreme Court held that its dominant purpose was public health, a State List subject, and upheld the law.

2. A.S. Krishna v. State of Madras (1957)

The Court clarified that incidental encroachment on Union powers does not invalidate a State law if its pith and substance is within the State's legislative competence.

3. **Kartar Singh v. State of Punjab (1994)**

The TADA Act was scrutinized for overlapping Union and State powers. The Supreme Court upheld it, noting that the law's main objective was national security and public order, validating it under the doctrine.

4. **ITC Ltd. v. Agricultural Produce Market Committee (2002)**

The Supreme Court reaffirmed that legislative competence must be judged by the true nature of the law, not incidental effects. The case emphasized substance over form in determining constitutionality.

5. **Rajasthan v. Union of India (1977)**

The Court reiterated that minor encroachments on another list are permissible, as long as the law's main purpose aligns with the legislature's power.

Limitations and Criticisms of the Doctrine

- **Blurs Federal Division of Powers:** It can weaken the clear demarcation between Union and State legislative powers.
- **Subjective Interpretation:** Determining the "dominant purpose" of a law is often **subjective**, leading to inconsistent judicial decisions.
- **Favoring Centralization:** The doctrine may indirectly **empower the Union** at the expense of States in sensitive areas like trade or security.
- **Potential Misuse by Legislature:** Minor encroachments might be justified under the doctrine, sometimes **undermining States' authority**.
- **Judicial Discretion:** Courts have wide discretion in deciding the dominant purpose, which can lead to **varied outcomes in similar cases**.
- **Incidental Encroachments Accepted:** Laws may still **overlap with restricted areas**, which critics argue can dilute the federal framework.

Source: <https://vajiramandravi.com/current-affairs/doctrine-of-pith-and-substance/>

© Vajiram & Ravi. For personal use only.