
FAIR DEALING UNDER INDIAN COPYRIGHT LAW: A JUDICIAL PERSPECTIVE

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ABSTRACT

The doctrine of fair dealing functions as a crucial limitation on the exclusive rights granted to copyright holders. Copyright law aims to encourage creativity and innovation by granting authors control over their works; however, this control cannot be absolute. In order to maintain a balance between the rights of authors and the interests of society, the law recognizes certain exceptions that allow the use of copyrighted works without prior authorization. In India, the principle of fair dealing is incorporated within the statutory framework of the Copyright Act, 1957, particularly under Section 52 which outlines acts that do not constitute infringement. Despite the statutory recognition of fair dealing, the Act does not provide a precise definition of the concept. Consequently, the interpretation and application of fair dealing have largely been developed through judicial decisions. This article examines the doctrine of fair dealing in India and analyses the significant role played by the judiciary in interpreting its scope. By examining landmark judicial decisions, the article highlights how courts have attempted to balance copyright protection with the broader public interest in access to knowledge, education, and freedom of expression.

Introduction

Copyright law plays a vital role in protecting intellectual creativity and promoting cultural and educational development. By granting authors exclusive rights over their works, copyright law encourages individuals to create literary, artistic, and musical works that contribute to the intellectual and cultural growth of society. At the same time, copyright law must ensure that these exclusive rights do not hinder access to knowledge or restrict the free flow of ideas.

The statutory framework governing copyright protection in India is contained in the Copyright Act, 1957. The Act provides protection to original literary, dramatic, musical, and artistic works and grants authors several exclusive rights including the right to reproduce, distribute, and communicate their works to the public¹. However, the Act also recognizes that certain uses of copyrighted material should be permitted in order to serve the public interest.

One of the most significant limitations on copyright protection is the doctrine of fair dealing². This doctrine allows the use of copyrighted works without the permission of the copyright holder for specific purposes such as research, private study, criticism, review, and reporting of current events. The objective of this exception is to ensure that copyright law does not obstruct educational activities, academic research, or public discourse³.

Although the doctrine of fair dealing is recognized within the statutory provisions of the Copyright Act, the scope and interpretation of this doctrine have been largely developed through judicial decisions. Indian courts have played a critical role in determining whether the use of copyrighted works in particular circumstances qualifies as fair dealing. Judicial interpretation has therefore been instrumental in shaping the boundaries of permissible use under Indian copyright law.

Concept of Fair Dealing

The doctrine of fair dealing is based on the principle that copyright protection must be balanced with the broader interests of society. While copyright law provides authors with exclusive rights over their works, these rights must be limited in certain situations in order to promote creativity, education, and public discourse.

Fair dealing allows limited use of copyrighted material without the authorization of the

¹ V.K. Ahuja, *Law Relating to Intellectual Property Rights*, LexisNexis, 3rd Ed., 2017, p. 241

² P. Narayanan, *Copyright and Industrial Designs*, Eastern Law House, 4th Ed., 2017, p. 176

³ Lawrence Liang, "Copyright, Culture and Access to Knowledge", *Indian Journal of Law and Technology*, Vol. 8, 2006, p. 45

copyright owner when such use serves socially beneficial purposes. These purposes include activities such as academic research, scholarly criticism, commentary, and news reporting. The doctrine recognizes that intellectual development often requires engagement with existing works and that restricting such engagement would undermine the very purpose of copyright law.

Unlike the concept of fair use recognized in the United States, which provides a flexible and open-ended framework, the Indian doctrine of fair dealing is relatively narrower and applies only to specific purposes mentioned in the statute. Nevertheless, Indian courts have adopted a pragmatic approach in interpreting these provisions and have ensured that the doctrine remains effective in protecting the public interest.

The principle underlying fair dealing is that copyright law should not grant authors complete control over all uses of their works. Instead, the law must allow certain uses that contribute to the dissemination of knowledge and the advancement of learning.

Statutory Framework of Fair Dealing in India

The statutory recognition of fair dealing in India is found primarily in Section 52 of the Copyright Act, 1957. This provision lists several acts that do not constitute copyright infringement and therefore fall within the scope of permissible use.

Section 52 permits the use of copyrighted works for purposes such as private or personal use, including research, criticism, or review of a work, and reporting of current events. These exceptions reflect the legislature's intention to ensure that copyright protection does not interfere with activities that contribute to education, journalism, and public discourse.

The provision also includes several specific exceptions related to educational institutions, libraries, and judicial proceedings. For example, certain reproductions of copyrighted works by teachers or students for educational purposes may be permitted under the statute.

However, the Act does not provide a comprehensive definition of what constitutes fair dealing. As a result, determining whether a particular use falls within the scope of the exception requires a contextual analysis of the circumstances in which the use occurs. This has led to the development of a significant body of case law in which courts have interpreted the statutory provisions governing fair dealing.

Judicial Interpretation of Fair Dealing

Indian courts have played a crucial role in interpreting the doctrine of fair dealing and in

determining the circumstances under which the use of copyrighted material may be considered permissible⁴. Judicial decisions have clarified that the determination of fair dealing depends on several factors, including the purpose of the use, the nature of the copyrighted work, and the extent of the material used.

One of the significant cases in this area is *Civic Chandran v. Ammini Amma*. In this case, the Kerala High Court examined whether the publication of a parody based on an existing dramatic work constituted copyright infringement. The Court held that parody and criticism could fall within the scope of fair dealing because they contribute to public discourse and artistic expression⁵.

Another important case is *The Chancellor, Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services*. This case involved the preparation of course packs containing photocopied extracts from academic books for use by university students. The Court held that the reproduction of portions of copyrighted works for educational purposes could fall within the scope of fair dealing. The judgment emphasized that copyright law should be interpreted in a manner that facilitates access to education and promotes the dissemination of knowledge.

These decisions demonstrate the judiciary's commitment to maintaining a balance between protecting the rights of copyright holders and safeguarding the public interest.

Fair Dealing in Educational and Academic Contexts

One of the most significant applications of the doctrine of fair dealing arises in the context of education and academic research. Educational institutions frequently rely on copyrighted materials for teaching, research, and scholarly discussion. Strict enforcement of copyright law in such contexts could significantly restrict access to educational resources and undermine the objective of promoting learning.

Recognizing this concern, the legislature incorporated several provisions within Section 52 of the Copyright Act, 1957 that permit limited use of copyrighted works for educational purposes. These provisions allow teachers and students to reproduce portions of copyrighted material for instructional activities. The underlying objective of these exceptions is to ensure that copyright law does not impede the dissemination of knowledge in academic institutions.

⁴ *Academy of General Education v. B. Malini Mallya*, (2009) 4 SCC 256

⁵ *Civic Chandran v. Ammini Amma*, 1996 (16) PTC 329 (Ker)

The significance of fair dealing in the educational context was clearly illustrated in the decision of the Delhi High Court in *The Chancellor, Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services*⁶. The dispute arose when several international publishers filed a lawsuit against a photocopy shop located within the campus of the University of Delhi. The publishers alleged that the photocopying of portions of their books for the preparation of course packs constituted copyright infringement.

The defendants argued that the photocopying was carried out solely for educational purposes and therefore fell within the scope of fair dealing under Section 52. The Delhi High Court accepted this argument and held that the preparation of course packs for students did not constitute copyright infringement⁷. The Court emphasized that copyright law must be interpreted in a manner that facilitates access to education rather than creating barriers for students and teachers.

This decision has been widely regarded as a landmark judgment in Indian copyright jurisprudence because it reinforced the importance of fair dealing in promoting access to education. The judgment also highlighted the judiciary's role in ensuring that copyright law remains aligned with the broader social objective of knowledge dissemination.

Fair Dealing in Media and Journalism

Another important area in which the doctrine of fair dealing operates is media reporting and journalism. The reporting of current events frequently requires the use of copyrighted materials such as photographs, video clips, or excerpts from published works. If journalists were required to obtain permission for every such use, it would significantly hinder the functioning of the press and limit the public's access to information.

In order to address this issue, Section 52 of the Copyright Act, 1957 permits the use of copyrighted works for the purpose of reporting current events. This provision allows journalists and media organizations to reproduce limited portions of copyrighted material when such use is necessary for news reporting.

The judiciary has played an important role in interpreting this provision and determining the extent to which media organizations can rely on the fair dealing exception. Courts have generally adopted a pragmatic approach that recognizes the importance of journalism in a

⁶ *The Chancellor, Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services*, 2016 (65) PTC 1 (Del)

⁷ *The Chancellor, Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services*, 2016 (65) PTC 1 (Del)

democratic society. At the same time, courts have emphasized that the use of copyrighted material must be limited to what is reasonably necessary for reporting purposes⁸.

Judicial decisions in this area demonstrate that the doctrine of fair dealing serves as an essential safeguard for press freedom. By allowing limited use of copyrighted works in news reporting, the doctrine ensures that copyright protection does not interfere with the public's right to receive information.

Fair Dealing and Freedom of Expression

The doctrine of fair dealing is closely connected to the broader principle of freedom of expression. The ability to criticize, comment upon, or parody existing works is an essential aspect of artistic and intellectual freedom. Copyright law must therefore allow certain uses of copyrighted material that contribute to public discourse and cultural expression.

This principle was recognized by the Kerala High Court in *Civic Chandran v. Ammini Amma*. The case involved a dispute concerning a dramatic work that criticized and parodied an earlier play. The plaintiff argued that the defendant had infringed copyright by reproducing elements of the original work.

The Court rejected this argument and held that the defendant's work constituted a legitimate form of criticism and parody. The judgment emphasized that copyright law should not be used as a tool to suppress critical commentary or artistic expression. By recognizing parody as a legitimate form of fair dealing, the Court reinforced the importance of protecting freedom of expression within the copyright system.

The decision illustrates how the judiciary has interpreted the doctrine of fair dealing in a manner that supports democratic values and encourages intellectual debate.

Fair Dealing in the Digital Environment

The rapid development of digital technology has significantly transformed the way copyrighted works are created, distributed, and consumed. Digital platforms, social media networks, and online publishing have made it easier for individuals to access and share copyrighted material. While these developments have expanded access to information, they have also created new challenges for copyright enforcement.

In the digital environment, the distinction between permissible use and infringement can often

⁸ *Super Cassettes Industries Ltd. v. Hamar Television Network Pvt. Ltd.*, 2011 (45) PTC 70 (Del)

become blurred. For example, individuals may share excerpts from books, films, or music recordings on social media platforms for the purpose of commentary or criticism. Determining whether such uses fall within the scope of fair dealing requires careful judicial analysis.

Courts are increasingly required to address disputes involving the online use of copyrighted works. In doing so, the judiciary must adapt traditional copyright principles to the realities of digital communication. The challenge lies in ensuring that copyright protection remains effective while also recognizing the legitimate uses of copyrighted material that occur within the digital sphere.

The continued evolution of technology will likely generate new legal questions regarding the application of fair dealing principles. As a result, the judiciary will continue to play a central role in interpreting copyright law in the digital age.

Comparative Perspective: Fair Dealing and Fair Use

Although the Indian doctrine of fair dealing shares certain similarities with the concept of fair use in the United States, the two doctrines differ in important respects. The fair use doctrine in the United States provides a flexible and open-ended framework that allows courts to evaluate a wide range of factors when determining whether a use is fair.

In contrast, the Indian doctrine of fair dealing is relatively narrower and applies only to specific purposes identified in the statute. These purposes include research, private study, criticism, review, and reporting of current events. Despite this narrower statutory framework, Indian courts have interpreted the doctrine in a manner that allows a degree of flexibility in its application.

Comparative analysis reveals that the Indian approach seeks to balance the need for legal certainty with the need to accommodate diverse forms of creative and educational activity. While the fair use doctrine offers greater flexibility, the Indian system relies more heavily on judicial interpretation to ensure that the statutory provisions are applied in a fair and reasonable manner.

Conclusion

The doctrine of fair dealing plays a fundamental role in maintaining the balance between copyright protection and the public interest. By allowing limited use of copyrighted works without authorization, the doctrine ensures that copyright law does not obstruct education, research, journalism, or freedom of expression.

In India, the development of the fair dealing doctrine has been shaped largely through judicial interpretation of the provisions contained in the Copyright Act, 1957. Courts have clarified the scope of permissible use and have established principles that guide the application of the doctrine in different contexts.

Judicial decisions such as *Civic Chandran v. Ammini Amma and The Chancellor, Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services* demonstrate the judiciary's commitment to preserving the balance between the rights of copyright holders and the broader societal interest in access to knowledge.

As technological developments continue to reshape the landscape of intellectual property law, the doctrine of fair dealing will remain an essential safeguard within the copyright system. The judiciary will continue to play a critical role in interpreting and applying this doctrine in a manner that promotes creativity, education, and the free exchange of ideas.