

## Hārīta Dharmasāstra: An Authority on Ancient Legal Procedure

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**Abstract:** It has long been acknowledged that the *Dharmasāstra*, attributed to Hārīta, is one of the most important ancient texts on *Dharmasāstra*. However, only quotations from it have been preserved, and today, only references embedded in later texts (Commentaries and *Dharmanibandhas*) provide access to it. Ancient *Dharmasūtrakāras* like Āpastamba, Baudhāyana, and Vasiṣṭha had acknowledged Hārīta as their predecessor and recorded his opinion in their Dharma Code. Yājñavalkya (*YaSm*-1/4) quotes Hārīta by name while enumerating the names of the twenty primary law-makers. Many passages attributed to Hārīta appear in both prose and verse form in a variety of legal treatises, starting with Lakṣmīdhara's *Kalpataru*. Kumārila, in his *Tantravārtika* (*TV*-1/3/11) and Viśvarūpa (*Vis*- 2/195) also mentions his name. The eminent scholar of *Dharmasāstra*, Mahāmahopādhyay P. V. Kane (1933:1) once expressed his desire to reconstruct the *Dharmasāstra* of Hārīta. It is worth noting that no one has ever attempted to reconstruct the text of Hārīta. It is also noteworthy that in comparison to *ācāra* and *prāyaścitta*, a lot of quotations of Hārīta are found on *Vyavahāra* (Legal Procedure) section. Kane (1930:244) himself notes that the quotations of Hārīta in a verse form on *Vyavahāra* (Legal Procedure) section deserve some extra attention. In this paper, I'll attempt to shed some light on *Dharmasāstra* of Hārīta on *Vyavahāra* ((Legal Procedure).

**Key Words:** *Dharmasāstra*, *Dharmasūtra*, *Smṛti*, *Vyavahāra*, *Nibandha*, *Dharma*.

### 1. INTRODUCTION:

The *Dharmasāstra*, ascribed to Hārīta, is one of the most notable ancient texts; nevertheless, only quotations from it have been preserved in commentaries and treatises, and the complete book is still unrecoverable. Before delving into the main topic, the *Dharmasāstra* of Hārīta, it is important to shed light on numerous associations with name 'Hārīta' in *Smṛti* Literature. Hārīta, a *Dharmasūtrakāra*, is found in the Sanskrit treatises (Kane 1930:70; Banerji 1962:257). Also, there are several verses of Hārīta are found in medieval treatises, which we can undoubtedly consider as *Dharmasāstrakāra*. Besides, *Laghuhāritasmṛti* and *Bṛdhahārītasṁṛti*, two additional works by the name of Hārīta,<sup>1</sup> are also found in Sanskrit literature, but it is unclear if they were written by the same Hārīta, the *Dharmasāstrakāra*. At last but not the least, Hārīta- a jurist, mentioned by P.V. Kane in his book (Kane 1930:244). Consequently, *Dharmasūtra* and *Dharmasāstra* are two more terms that must be understood in this context, as well as their interrelation. In a broader sense each and every form of *dharma* literature viz. *Dharmasūtras*, metrical *smṛtis*, its commentaries and legal treatises can be termed as *Dharmasāstra*. In a narrower sense, however, all the metrical *smṛtis* can also be termed as *Dharmasāstra*. On the other hand, any of a class of Sanskrit prose texts concerned with law and conduct is termed as *Dharmasūtra*. It consists of prose only, while *Dharmasāstras* consist exclusively of verse.

The fact that ancient *Dharmasūtrakāras* like Āpastamba (ĀPDH- 1/13/11, 1/18/2, 1/19/12, 1/28/5, 1/28/16, 1/29/12, 1/29/16), Baudhāyana (BDH- 2/1/50), and Vasiṣṭha (VADH-2/6) had acknowledged Hārīta as an authority on dharma proves that he was an old *sūtrakāra* on dharma. *Dharmasūtra* of Hārīta is not presently available but some ancient *dharmasūtrakāras* like Baudhāyana, Āpastamba and Vasiṣṭha quoted him as an ancient *sūtra*-writer and is believed to have belonged to the 'Yajurvedas'. Āpastamba quotes Hārīta more frequently than other author. The 'Tantravārtika'

<sup>1</sup> Mani, Vettam. "Hārīta." *Puranic Encyclopaedia*. Delhi: Motilal Banarasiidass, 1975. 310.

mentions Hārīta along with 'Gautama' and other *sūtrakāras* on *dharma*. Yājñavalkya (YASM-1/4) quotes Hārīta by name while enumerating the names of the twenty primary law-makers.<sup>2</sup> Many passages attributed to Hārīta appear in both prose and verse form in a variety of legal treatises, starting with Lakṣmīdhara's *krtyakalpataru*. Kumārila, in his *Tantravārtika* (TV-1/3/11) and Viśvarūpa (VIS- 2/195). However, the *Dharmasūtra* of Hārīta is not available but different treatise-writers recorded his quotations frequently in their texts. Amongst them, most of the quotations are found on *Vyavahāra* (judicial procedure).

In the Section 11 of the first volume of his book *History of Dharmasāstra* (HDS), Kane (1930:70) identifies Hārīta as an ancient *dharmasūtrakāra*.<sup>3</sup> In another place (Section 56), he mentions that a plenty of quotations available in the medieval commentaries and digest literature ascribed to Hārīta especially on *Vyāvahāra* (Law and Procedure). From section 11, we get some important information about Hārīta as a *dharmasūtrakāra*. On the other side, in section 56 of HDS, the writer himself said that "The verse quotations from Hārīta on topics of 'Vyavahāra' deserve some treatment."<sup>4</sup> The author identifies a quotation of Hārīta recorded in Devaṇabhaṭṭa's *Smṛticandrikā*, where he mentions the definition of *vyavahāra*. According to Hārīta when the reclamation of one's own wealth and the avoidance of doing the duties particular to another are affected in due course of law is regarded as a case of *vyavahāra*.<sup>5</sup> It is also noted that Hārīta had accepted four feet of law like Nārada. According to him *Dharma*, legal procedure (*vyavahāra*), custom (*caritra*), and king's decree (*nṛpājñā*) — these are the four feet of legal procedure, the subsequent ones annulling the prior ones.<sup>6</sup> In this context, Kane provides us lots of knowledge about Hārīta.

In this paper, I would like to highlight the number of times he was quoted in mediaeval treatises concerning law and procedure (*Vyavahāra*) and I found 133 quotations of Hārīta from 45 works. Among these 107 quotations were composed in verse and 26 were in prose style. Most of the quotations are found on the *Vyavahāra* from the treatise of 'Vyavahārasamuccaya' by Śarabhajī. It was probably written from 1798 to 1833 CE. The treatise is consisted of 80 quotes on *Vyavahāra* of Hārīta.

Furthermore, the treatise where more quotations are found is *Smṛticandrikā*, which was written by Devaṇabhaṭṭa (1150-1225 CE), 77 quotations are found in the book and he belonged to the school of *Drāviḍa*. 57 quotations are found in 'Vyavahāraprakāśa' by Mitramiśra. The time of Mitramiśra was 1540 CE. Beside, all these, in *Vivādaratnākara* of Caṇḍeśvara (1290-1370 CE) who belonged to the Mithilā School, 38 quotations are found. *Sarasvatīvilāsa* (1497-1539 CE) which was written by Sri SriPratāparudradeva, 41 quotations are found and he belonged to the Benāras School. 13 quotations are found in Vijnāneśvara's *Mitākṣarā* (1070-1100 CE) and the sub-school of Mitākṣarā is Mahārāṣṭra. *Parāśaramādhava* (1330-1385 CE), which was written by Mādhvacārya and he belonged to the *Drāviḍa* school, 31 quotations are found in this book. There are a few another treatises like *vyavahāraikalpataru*, *vivādacandra*, *vivādatāṇḍavam*, *vyavahāranirṇaya* etc. where some quotations are also found.

## 2. CONCLUSION:

Professor Kane admits Hārīta as a *Dharmasūtrakāra*, as the name of Hārīta is acknowledged by the other ancient *Dharmasūtrakāras* like Āpastamba etc. However, several quotations found in a verse form in the medieval legal commentaries and treatises would also insist us to consider Hārīta as a *Dharmasāstrakāra*. According to my hypothesis, Hārīta, the *Dharmasūtrakāra* and Hārīta, the *Dharmasāstrakāra* is not a same person. After examining all the quotations

<sup>2</sup> Cf "मन्वत्रिविष्णुहारीतयाज्ञवल्क्योशनोऽङ्गिराः।  
यमापस्तम्बसंवर्ताः कात्यायनबृहस्पती॥  
पराशरव्यासशङ्खलिखिता दक्षगौतमौ।  
शतातपो वशिष्ठश्च धर्मशास्त्रप्रवर्तकाः॥"

<sup>3</sup> Kane, P. V. (Pandurang Vaman). *History of Dharmasāstra*. Poona [now Pune]: Bhandarkar Oriental Research Institute. 1930.

<sup>4</sup> Cf. *ibid*: 244

<sup>5</sup> "स्वधनस्य यथा प्राप्तिः परधर्मस्य वर्जनम्।

न्यायेन् यत्र क्रियते व्यवहारः स उच्यते॥" (Gharpure 1918:1)

<sup>6</sup> "धर्मेण व्यवहारेण चरित्रेण नृपज्ञया।

चतुष्पाद् व्यवहारोऽयमुत्तरः पूर्ववाधकः॥" (Sastry 1927:58)

what we have found in medieval legal texts, it could be noted that the directives relating to *ācāra* (ceremonial laws) and *prāyaścitta* (laws relating to expiation) sections are mostly found in a form of *sūtra* (aphorism/prose). In contrast, an immense number of judicial directives of Hārīta are found in a form of metre also. According to my argument, all the ceremonial and expiatory laws, in a form of prose, are the part of *Dharmasūtra* of Hārīta, which is earlier than the *vyavahāra* (legal procedure) laws recorded in a metrical form. The hypothetical *Dharmaśāstra* accredited to Hārīta may be composed in a later period, as various directives relating to judicial procedure could be found there in a form of metres which are unavailable in the earlier *Dharmasūtras*. Therefore, my hypothesis will suggest that the *Dharmasūtra* of Hārīta was composed earlier than the *Dharmaśāstra* ascribed to Hārīta. Later commentators and composers of the legal treatises have quoted both the *Dharmasūtra* and the *Dharmaśāstra* of Hārīta without any discrimination.

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