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Total number of printed pages-6

23(1) LLM 1/1

2011

**BASICS OF CONSTITUTIONAL
LAW OF INDIA**

Paper : 1-1

Full Marks : 80

Pass Marks : 32

Time : Three hours

The figures in the margin indicate full marks for the questions.

Answer any five questions.

1. (a) Discuss briefly the importance of the making of the Constitution of India. 8
- (b) Write a short note about the Constituent Assembly, 1946 incorporating, *inter alia*, the events that led to its birth. 8

Or

2. What do you mean by philosophy of a Constitution?

(11)

Contd.

Make an analytical evaluation of the philosophy of the Constitution of India pointing out how far the state instrumentalities have been able to fulfil the philosophical dictates: 4+12=16

3. Write an elaborate note with the help of judicial decision as to how the judiciary is expanding the meaning, content and reach of the term 'State', defined under Art. 12 of the Constitution of India, consistent with the philosophy and spirit of the Indian Constitution in one hand and the evolving and expanding horizons of different fundamental rights on the other. 16
4. (a) Are the provisions of the Constitution relating to fundamental rights both retrospective and prospective effects? Explain fully. 4
- (b) What are the doctrine of eclipse and the doctrine of severability in the context of the fundamental rights under the Constitution of India? Are these doctrines applicable to both pre-Constitutional and post-Constitutional laws? Explain fully by referring to case laws. 4+4

(c) Are personal laws outside the definition of law under Art. 13 so far as fundamental rights are concerned? Give your answer in the light of the judicial decisions and the opinion of distinguished jurists. 4

5. The Supreme Court of India has held that the Indian Constitution is founded on the bedrock of the balance between the Fundamental Rights and the Directive Principles of the State Policy. To give absolute primacy to one over the other is to disturb the harmony of the Constitution. It has further held that this harmony and the balance between the Fundamental Rights and the Directive Principles is an essential feature of the basic structure of the Constitution. Give a chronological account of important decisions of the Supreme Court and related events which led the Apex Court to hold the above view. 16

Or

6. What do you mean by a Welfare State? Explain the principles which give positive directions to the legislatures and the executives in India to promote and strengthen the concept of a "Welfare State" through socio-economic democracy. Do you

agree with the view that the Preamble, the Fundamental Rights and the Directive Principles which are characterised as the 'trinity' of the Constitution will enable the Republic to achieve its desired goal. 4+8+4=16

7. What are the implications of the doctrine of pleasure? Is this doctrine subject to legislative control? Discuss in detail the Constitutional restrictions in exercising this doctrine by the President or the Government of a State. Does conferment of disciplinary powers by statute on a designated authority override the pleasure of the President or the Governor? Explain.

2+2+8+4=16

Or

8. (a) Describe the circumstances under which the civil servant is deprived of the reasonable opportunity of being heard for his removal, dismissal or reduction in rank. Is the decision of the competent authority to deprive the reasonable opportunity to defend final and outside the scope of judicial review? Explain. 3+3=6

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- (b) Are the jurisdictions of all courts excluded with respect to the disputes or complaints referred to the Administrative Tribunals? Explain with the help of case laws. 4
- (c) State the provisions of the Constitution relating to creation of one or more all India services common to the Union and the States. 3
- (d) Are the civil servants entitled to the Constitutional safeguards under Art. 311 on their termination from service on compulsory retirement? Explain with reasons. 3

- (a) What are the utilities of parliamentary privileges? Are the members of Parliament of India capable of enjoying all the privileges enjoyed by the members of British Parliament? 4+4

- (b) State the relationship between parliamentary privileges and fundamental rights. 8

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Contd.

(13)

Or

10. Give an account with the help of decided cases how the privilege of a House to punish for its contempt has led to many conflicts between the Legislatures and the Courts. Also give your views for or and against codification of the privileges.

12+4=16