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14 (LLM 1) 1002

2014

FCL

Paper - 1002

Full Marks : 80

Time : Three hours

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

1. The classical concept of federalism as found in USA has been replicated in different countries with suitable modifications to meet the requirement of the federal character in their respective countries.

The founding fathers too provided to the people of India a federal constitution after looking into the then existing federal constitutions of some countries while keeping in view the demands of the people as reflected during the freedom movement. In view of the above, do you agree with the contention of H. M. Seervai, that federalism in India is mainly historical. Justify with reasons.

16

erco Point

Contd.

45

OR

For a proper analysis of the structure of the government as provided for under the Constitution of India one has to have a comprehensive idea of the history of the country as well as the debates of the Constituent Assembly.

Attempt an exhaustive analysis of the structure of the Government by referring to constitutional history and Constituent Assembly Debates. 16

A healthy federal democratic republic primarily depends on the constitutional structure and the awareness of its people for such a federal set up as to reflect the socio-political and cultural aspirations of its people.

The centre state relations as provided for under the constitution has largely been worked at effectively for its uniqueness in being able to maintain a balance despite the delicate fabric of religion, language and diverse culture. Elucidate and embellish your answer with reasons. 16

OR

Attempt a critical analysis of the centre-state legislative relations. Do you feel that the centralising tendency in certain areas have adversely affected the interests of the states and put federation at peril. Justify with reasons. 8+8=16

In the present century federalism has come to be understood as a dynamic process of cooperation and shared action with increasing interdependence.

and centralist trends. The antiquated concept is nowhere a functional reality, not even in classical federal model.

Analyse the concept of federalism prevailing in India in the above context. 16

OR

Article 261(1) lays down that full faith and credit is to be given throughout the territory of India to 'public acts' records and judicial proceedings of the union and the states (S. Mohd. Ibrahim Halee V. State of Madras, 21 STC 378 (1968).

Discuss the above in the context of decisional laws. 16

4. The makers of the constitution while framing Article 301 had before them the experience of other countries, particularly that of the United States of America and the Commonwealth of Australia. The latter model provided that "on the imposition of uniform duties of customs, trade, commerce, and intercourse, among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free."

The words 'among the States' and 'absolutely free' as contained therein have been replaced by the words 'throughout the territory of India' and "free" respectively in Article 301; thereby extending the freedom to intra state trade and commerce.

Attempt an exhaustive analysis of Article 301 referring to Constituent Assembly Debates as well as judicial decisions. 16

OR

Economic unity of the country being one of the constitutional aspirations and safeguarding its attainment and maintenance of that unity had been the objective of the founding fathers.

Explain the extent to which the above aspiring and objectives have been fulfilled or has the same been hindered by other processes in action. 16

5. Provisions for proclamation of emergency have been laid down under the constitution and the same has come in for amendment under the Forty-fourth Amendment to the Constitution of India. Subsequent thereto, two important decisions have been rendered by the apex court in *Minerva Mills* case, AIR 1980 SC 1789 and in *S. R. Bommai's* case, AIR 1994 SC 1918.

By referring to the above decisional law can it be asserted that a proclamation of emergency under Article 352 is reviewable by the court.

Elucidate with reasons.

16

OR

Discuss the effect of proclamation of emergency as provided for under the Constitution of India. Also state the impact it would have on the provisions relating to distribution of revenues while a proclamation of emergency is in operation.

10+6=16