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2016

**BASICS OF CONSTITUTIONAL
LAW OF INDIA**

Paper : 1001

Full Marks : 80

Time : Three hours

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

1. (a) Discuss briefly the Objective Resolutions moved by Pandit Nehru on the basis of which the Constituent Assembly proceeded to frame the Constitution. 8
- (b) Explain the importance of the study of the making of the Constitution of India. 8

Contd.

OR

2. (a) Write a short note on the important events that led to the birth of the Constituent Assembly of India in 1946. 8
- (b) Discuss the recommendations of the Cabinet Mission Plan of 1946. 8
3. (a) Explain in the light of the judicial decisions and the opinions of the distinguished jurists whether the personal laws are outside the definition of 'law' under Article 13 of the Constitution of India. 8
- (b) Explain by referring to decided cases how far the Doctrine of Eclipse and the Doctrine of Severability are applicable to both pre-constitutional and post-constitutional laws in the context of fundamental rights under the Constitution of India. 8

OR

4. The judiciary is expanding the meaning, context and reach of the term "State", defined under Article 12 of the Constitution of India, consistent with evolving and expanding horizons of different fundamental rights, so that the state cannot escape its responsibility or liability for direct or indirect violation of fundamental rights in a Welfare State.

Elaborate the above in the context of the philosophy and the spirit of the Constitution and the relevant and important judicial decisions. 16

5. "The question of relationship between the Directive Principles and the Fundamental Rights has caused some difficulties, and the judicial attitude has undergone transformation on this question over the time."

Elaborate the above in the light of relevant judicial decisions in chronological order.

16

OR

6. "The Fundamental Rights are not an end in themselves but are the means to an end. The end is specified in the Directive Principles. The Fundamental Rights and the Directive principles, in this sense, constitute the core of our Constitution and combine to form its conscience.

The judiciary has now adopted the strategy to read Fundamental Rights along with the Directive Principles with a view to define the scope and ambit of the former. This assimilative strategy is broadening and giving more depth and dimension to existing Fundamental Rights and even creating more rights over and above the expressly stated Fundamental Rights. At the same time, by this strategy, the values underlying the Directive Principles are also becoming enforceable by riding on the back of the Fundamental Rights."

Explain in the light of the important judicial decisions how the courts have used the Directive Principles to expand the ambit of the Fundamental Rights. 16

7. (a) Matters relating to the permissible limits of legislative privileges, the role of the judiciary in this area, the relation between legislative privileges and fundamental rights have been creating, from time to time, unnecessary tensions between the courts and the legislatures. To avoid the above mentioned tension different suggestions have been put forward by some eminent jurists.

State at least three of these suggestions and critically evaluate the merits and demerits of each of them. 8

(b) "It seems odd for a House of State Legislature, working under a written Constitution, to assert that it is 'sovereign' in the matter of its legislative privileges when an Act passed by the same legislature cannot prevail against fundamental rights and is subject to judicial review. It seems odd to claim a status higher for legislative privileges than a statute passed by a legislature. To a great extent, the claim of privilege by a democratically elected legislature borders on being undemocratic and anti-people."

Make a critical assessment on the above statement and give your own view. 8

OR

8. (a) Write a brief note in the light of the judicial decisions the relationship between the legislative privileges and the fundamental rights. 8

(b) Discuss briefly with reference to decided cases how the privilege of the House of Legislature to punish for its contempt has become very controversial in India and mention some of the propositions laid down by the Supreme Court to resolve the controversy. 8

9. (a) (i) Explain why the rule-making power of the President and the Governors under Article 309 of the Constitution is characterised as 'legislative' and not 'executive' power. 2

(ii) Explain why it is not obligatory on the Government to frame rules under Article 309 for creating a service or recruiting the people for the same. Cite judicial decisions in support of your explanation. 2

(iii) Explain with reference to Articles 309 and 310 how far the doctrine of pleasure is subject to parliamentary legislation in India and U.K. 2

(iv) The pleasure of the President or the Governor under the doctrine of pleasure as mentioned in Article 310, being personal, cannot be delegated.

Comment on the above with reference to decided cases. 2

(b) Describe different implications of the doctrine of pleasure in U.K. and India and state the constitutional restraints on the President and the Governors with respect to their exercise of power under the doctrine. 4+4=8

OR

10. (a) Establish the relationship between the legislative power of the government under Article 309, the powers of the President or the Governors under the doctrine of pleasure as laid down in Article 310 and the Constitutional protection of the government employees with respect to their tenure of service. Cite case laws in support of your answer. 8

(b) The expression "reasonable opportunity" in Art. 311(2) which provides for Constitutional protection to the civil servants with respect to tenure of their service has incorporated the principle of natural justice in the service jurisprudence.

Elucidate the above by highlighting the different facets of natural justice involved in a disciplinary proceeding of quasi-judicial nature in which the first stage of the proceeding ends when the disciplinary authority arrives at a conclusion on the basis of the evidence, inquiry officer's report and the delinquent officer's reply to it. 8