

Roll No.

SAP ID



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, July 2020
Open Book – Through Blackboard Learning Management System

Course: Constitutional Law-II
Programme: BBA.LL.B(H) CL
Course Code-CLCC 2005
Time: 03 hrs.

Semester: IV

Max. Marks: 100

Instructions:

As this examination is in open-book format, the students are expected to demonstrate a very high degree of Academic Integrity and not copy contents from resources referred. Instructors would look for understanding of the concept by the students and any similarity found from resources online/ offline shall be penalized in terms of deduction of marks and even cancellation of paper in requisite cases. The online examination committee of the School would also look for similarity of two answer scripts and if answer scripts of two or more students are found similar, both the answer scripts shall be treated as copied and lead to cancellation of the paper. In view of the aforesaid points, the students are warned that they should desist from using any unfair means.

All Questions are Compulsory

S. No.		Marks	CO
1	<p>In the year 2005, Mr Prasad, a 50-year old man, having political affiliation with the ruling party ["accused"] was sentenced to death by Trial Court after finding him guilty of aiding and abetting the abduction and murder of Mr Dinesh ["deceased"] by professional killers..</p> <p>Aggrieved by the conviction and sentence, the accused preferred an appeal before the Hon'ble High Court of Allahabad. The Hon'ble High Court accepted the appeal, overruled the order of the Trial Court, and acquitted him. Aggrieved by the State Ultimately, a Special Leave Petition was filed before the Hon'ble Supreme Court and Supreme Court found him guilty and sentenced him to death penalty in the year 2010.</p>	20	CO 2 and 4

	<p>In 2010, he applied to the President of India for mercy under Art.72. Finally in the year 2020 President rejected his mercy petition without giving him any chance of hearing. Aggreieved by the decision of the President, accused approaches the Supreme Court. Based on the above mentioned facts answer the following questions-</p> <p>a.)Whether the Hon'ble Supreme Court can exercise its power of judicial review on the President decision of remitting the sentence of the accused? 10 Marks</p> <p>b.) Explain the various grounds, which the accused must mention before the Court for getting any relief. 10 Marks</p>		
Ans.			
2	<p>Kuntala is a state situated in the northern region of India. It is one of the least developed State in terms of industrial infrastructure and human resources. The State is having a huge potential in the Jute Industry. In the year 2017, in the State elections, Phool Congress Party came into power, and Ms.Devasena became the Chief Minister. Under her leadership, the State is trying to set up many industries by giving various concessions to the Industrialist in the form of Tax Holidays, low electricity tariff, etc. However, by May 2020, a deadly and life-threatening virus, namely Corona Virus (“COVID-19”), affected various people all over India. More than 100,000 cases were reported throughout India, and accordingly, the Union Government by invoking its power under The Epidemic Diseases Act, 1897 and under the Disaster Management Act, 2005 constituted a Special Committee consisting of various experts from the area of Medical, Disaster Management, Scientist,etc . The said Committee recommended a lockdown for 21 days starting from 23.03.2020 in states wherein there are more than 100 cases. The Central Government approved this recommendation of the Committee and issued Office memorandum in this regard.</p>	20	CO 3 and 4

The Kuntala State Government, however, decided not to impose the lockdown due to a small number of cases (less than 100) being reported within the State. Various media houses started reporting that due to a lower number of testing conducted within the State, the number of active cases is less. With more and more testing, cases that are more positive will appear. The Kuntala State Government rejected these reports as being hypothetical and exaggerated.

The President sought a detailed report from the Governor in this regard. While the Governor was preparing his report, on 21st May 2020 the President on being satisfied that a situation had arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution issued a proclamation under Article 356 of the Constitution of India. The aid and advice tendered by the Council of Ministers to the President was based on the information and reports published by the Media and letters sent by the family of the deceased personals. The President also dissolved the legislative assembly of the State and directed the Governor to manage the affairs of the State.

On 5th June 2020, 10 MLA of the dissolved assembly challenged the Proclamation issued by the President, under Article 32 of the Constitution of India as being *mala fide*, disproportionate and unconstitutional. You appear for the 10 MLA, and the Hon'ble Supreme Court has sought your response on the following legal issues: -

- a) What are the different types of emergencies mention under the Constitution Of India? The submissions on this question should be strictly legal and uninfluenced by facts of this case. 5 marks
- b) Explain whether Supreme Court can review the decision of the President regarding imposing of President Rule? 5 marks
- c) Whether the Proclamation issued by the President was constitutional and valid under Article 356 of the Constitution of India? Whether the Hon'ble Supreme Court can set aside the Proclamation issued by the President?

	<p style="text-align: center;">5 Marks</p> <p>d) What form of remedial actions can be directed by the Hon'ble Supreme Court?</p> <p style="text-align: center;">5 Marks</p> <p>You are expected to answer all question along with relevant provisions and case laws briefly.</p>		
Ans.			
3	<p>State X passed a law, which levies a tax on all agricultural equipment brought into the state from outside through road, inland waterways or air. State X does not manufacture agricultural equipment and relies on other states for its requirements. The Constitutional validity of this Act is challenged on the ground that it violates Articles 301 and 304 of the Constitutions.</p>	20	CO 2 and 4
Ans.			
4	<p>In 2020, the Parliament recognising the phenomenal increase in the price of coal due to its shortfall in the extraction by States and its high demand for industrial units and energy production passed the Coal Bearing Areas and Extraction (Acquisition and Development) Act 2020 ["CBAE Act"]. Under the CBAE Act, the Parliament authorised the Union Government to acquire land and rights in and over land, which are vested in a State. Aggrieved by the Act, the State of Orissa filed a suit against the Union of India declaring that the Parliament is not competent to make a law authorising the Union Government to acquire land which is vested in a State and declare the Act <i>ultra vires</i> the legislative competence of Parliament.</p> <p>The CBAE Act also provided for taking over of all leases granted to private players and acquisition of all the equipment's employed by such individual players for extraction of coal. As for compensation, the Act incorporated the relevant provisions of the Land Acquisition Act, 1894. The CBAE Act was added to the 9th Schedule of the Constitution by the Constitution (105th Amendment) Act, 2020. The Parliament also inserted Article 31E to the Constitution of India by the Constitution (106th Amendment) Act, 2020. Article 31 E provided as under: -</p>	20	CO 1and 4

"Notwithstanding anything contained in the Constitution of India, no law providing for the acquisition of land under the Coal Bearing Areas and Extraction (Acquisition and Development) Act 2020 shall be called in question in any Court on the ground that the acquisition is improper or the compensation payable is inadequate."

Various petitions were filed under Article 32 of the Constitution of India by the persons whose equipment were acquired under the CBAE Act challenging the constitutional validity of Constitution (105th Amendment) Act, 2020 and the Constitution (106th Amendment) Act, 2020.

The Supreme Court has clubbed the Suit filed by the State of Orissa and Petitions filed under Article 32 of the Constitution of India. The Court has framed the following questions: -

- a) What is the nature of jurisdiction exercisable by the Hon'ble Supreme Court while dealing with a dispute between the Union of India and the Government of State? Highlight the relevant articles under which the Hon'ble Supreme Court exercises such power and how is it different from the jurisdiction under Art.32 6 marks

- b) Whether the Constitution (106th Amendment) Act, 2020, which restricts the power of judicial review of the Court violates the doctrine of Basic Structure of the Constitution? 8 marks

- c) Whether the Hon'ble Supreme Court can judicially review the Coal Bearing Areas and Extraction (Acquisition and Development) Act 2020 which is now placed under the 9th Schedule? 6 marks

Ans.			
5	State of Paray on 15 th April, 2020 passes an Act named as Prohibition on Noise Pollution Sale Act, 2019 which came into force on 1 st March, 2020. The main object	20	CO 2 and 4

	<p>of this act is the prohibition and prevention of noise pollution through loudspeakers after 10 P.M and whoever found violating it shall be punished for an imprisonment up to 3 years and the offence is bailabale. Mr Krew who is having a business of manufacturing of loudspeakers in Paraya challenges, this law on the basis that Amplifier which is used in manufacturing of loudspeakers is a subject matter of the Union List. He approaches the Supreme Court of India by filing a Special Leave Petition. The counsel of the State says before the Court that the prohibition on the use of loudspeaker is done on the ground of Health and Health is a matter of State list therefore State is having the competency to enact the law.</p> <p>The law of the State of Paraya is pari material with the law of India.</p> <p>In the light of above fact, examine the constitutionality of this act with the help of decided cases.</p>		
Ans.			

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