

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

**Course: Constitutional Law-III (Centre State Relations, Emergency and Amendments)
Semester-V (Batch: 2014-19)**

Mid Semester Test: August-2016

Date: 11th August, 2016

Duration: 2 hours

Max. Marks: 30

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

- | | Marks |
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| <p>Q.1 This public interest litigation has been filed for the following reliefs: This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of Mandamus or otherwise declaring (1) that Article 3 of the Constitution of India is violating the basic structure and preamble of the Constitution of India apart from inconsistent with other provisions of the Constitution of India, particularly Part 3 of the Constitution of India and quash and set aside the same or alternatively declare the Constitutional (V Amendment) Act, 1955 insofar as it relates to not ascertaining the views from the State Legislature pertaining to provisions proposed in the draft bill sent to the State Assembly in pursuance of recommendation made by the President as well as prescribing time to express views pertaining to proposed bill as well as provision of bill is concerned as violating the basic structure and preamble of the Constitution of India and against the democratic and federal principles envisaged in the Constitution of India and quash and set aside the same; (2) restrain the Union of India from initiating any action in pursuance of Article 3 of the Constitution of India for bifurcation of State of Andhra Pradesh and formation of new State of Telangana without enacting any law or even issuing any executive instructions prescribing criterion, modalities and guidelines for exercising power under Article 3 of the Constitution of India or alternatively direct the Union of India to consider for making any legislation or issuing executive instructions prescribing guidelines, modalities for exercising power under Article 3 of the Constitution of India, particularly forming new States before initiating any action under Article 3 of the Constitution of India for bifurcation of State of Andhra Pradesh; (3) issue direction to the effect that as long as Article 371-D is in force, the Union of India is not having any authority or power to exercise power under Article 3 of the Constitution of India for bifurcation of existing State of A.P., and forming proposed new State of Telangana; (4) also declare that restraining the present H.E. President of India from exercising constitutional power available under Article 3 of the Constitution of India in pursuance of any recommendation made by the Union Cabinet regarding bifurcation of State of Andhra Pradesh and forming new State of Telangana and (5) restraining all the non-official respondents from conducting any agitations, strikes, bundhs etc., either for bifurcation of State of Andhra Pradesh or opposing the same and pass such other order or orders as it deems fit and proper.</p> <p>This petition was rejected by Andhra Pradesh High Court in P.V. Krishnaiah v. Union of India, rep. by its Cabinet Secretary and Ors, AIR 2014 AP 13.</p> | <p>(10)</p> |

Territory and its significance is been considered as an important criteria in determining federal character of the Constitution. In this respect write a comparative analysis of this judgment and also compare the status of States in Federal Law making by explaining constitutions of United States of America, South Africa and Switzerland.

- Q.2 Structure of Judiciary and Judicial Authority are considered as important criteria in determining federal character of the constitution. But traditional authors give importance to rigidity and supremacy of the constitution as important principles of federalism. Explain these features of federation in the context of Constitutions of India, United States of America, Canada and Germany. (10)
- Q.3 “The foundation for a federal set up for the nation was laid in the Government of India Act, 1935. Though in every respect the distribution of legislative power between the Union and the States as envisaged in the 1935 Act has not been adopted in the Constitution but the basic framework is same”- Analyse this statement in the context of Supreme Court decisions. (10)

OR

Explain the facts, arguments of Plaintiff and Defendant and Reasoning for the Decision in State of West Bengal v. Union of India AIR 1963 SC 1241. Analyse the Supreme Court decisions subsequent to this judgement and elucidate the present Position. Whether H.M. Seervai was Correct in criticising this judgement?
