

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Administrative Law**
Semester-IV (Batch: 2017-22)

End Semester Examination: April-May 2019

Date: 6th May, 2019

Duration: 3 hours

Max. Marks: 50

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 anything 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.

Answer any five questions:

Marks

- Q.1 Mr. Shivraj was appointed as the Managing Director (M.D.) of Gujarat Gas Corporation (G.G.C.) on 22. 05. 2014 under the Gujarat Gas Corporation Act of 2005, for a period of five years. Mr. Shivraj joined G.G.C., as M.D., on 01. 06. 2014. G.G.C., by exercising the power under Section 43 of the said Act issued an order on 05. 01. 2016 and removed Mr. Shivraj from the post of M.D. Mr. Shivraj was appointed under Sections 10 and 11 of the said Act which provide for an elaborate enquiry and reasonable opportunity for removal of M.D., from the office before expiry of the term. Section. 43(1) of the Act provides: "If the Managing Board of the Corporation on receipt of a report or otherwise, is satisfied that situation has arisen in which the administration of the Corporation cannot be carried out in accordance with the provisions of Act, without detriment to the interest of the Corporation, and it is expedient in the interest of the Corporation to do so, it may by order, for reasons to be mentioned therein, direct that the provisions of Sections 10 and 11 shall, as from the date specified in the order, apply to the Corporation subject to modifications". Section 44 of the Act provides that if after the order under Section 43, within one week, it appears to the Managing Board on the application of the M.D., so removed, that it is necessary to allow him/her to present the case before the board, it may grant such hearing or deny it by giving reasons for such decision. On 15. 01. 2016, Mr. Shivraj moved a petition in the High court of Gujarat to declare the action as *mala fide*, illegal and arbitrary impinging his right to continue in office till 31. 05. 2019 and was violative of the principles of natural justice. The High Court dismissed the petition. Aggrieved by this, Mr. Shivraj challenged the High Court's decision before the Supreme Court of India. Decide the appeal with relevant principles and case laws of administrative law. (10)
- Q.2 Explain the following with case laws: (10)
- (a) Irrelevant consideration and acting under dictation as grounds for judicial review of administrative discretion.
 - (b) Wednesbury principle.
 - (c) Reasoned decision or speaking order.
- Q.3 District Farmers Association (D.F.A.) consists of wholesalers, distributors and vendors of various food items, food grains, fruits, vegetables and sugar in Gandhinagar. The grievance (10)

of D.F.A. is that they were asked to shift their business premises from the existing place in the heart of Gandhinagar city, district shopping complex, Sector-21, to a new market place at Randheja, which is on the outskirts of Gandhinagar city and seven kilometers away from the existing market. All the traders were informed that if they do not shift from existing business place to the new place, the Agricultural Market Committee (A.M.C.), a statutory body, constituted under the Gujarat Agricultural Markets Act, (G.A.M., Act), would not renew their respective licences.

G.A.M. Act Section 7(2) states the following: 'The State Government, where it considers necessary or expedient in the public interest so to do, may, by notification: (a) declare through rules that the wholesale transactions of all or any of the specified agricultural produce in respect of a market area shall be carried on only at a specified place or places within its principal market yard or sub-market yards.'

Pursuant to this provision, the Government issued the Gujarat Agricultural Markets Rules (Rules), dated 24. 08. 2018, issued under Section 7 (2) (a) of G.A.M. Act. Rules so made stated that the wholesale trade of certain commodities mentioned in Schedule should be conducted at new market, *Naveen Mandi*, Randheja and whose location was specified in the said Notification. By a subsequent Notification, dated 15. 10. 2018, whole sale trade of several other fruits and vegetables were also added to the Schedule of the Rules. Traders of Gandhinagar district shopping complex were issued with Notices and asked to shift their business places, including shops and go-downs to the *Naveen Mandi* at Randheja. Against this Notification, the D.F.A., filed a petition before the High Court of Gujarat and challenged the abovementioned Rules. How will you decide the validity of the Rule which is under challenge in the court of law?

- Q.4 (a) The Government of India appointed a committee to investigate into the functioning of various cotton mills of the country under Section 15 of the Industries (Development and Regulation) Act, 1951. The committee submitted its report to the Government of India after affording a reasonable opportunity of hearing to various cotton mills. Based on the report, but without further issuing any notice or revealing the report to the management of mills, 76 mills were taken over by the Government of India under Section 18 of the said Act. The takeovers of the Mills were challenged before the Supreme Court of India on the grounds of violation of principles of natural justice. Bring out relevant issues and decide the petition based on the legal arguments of the parties. (10)

Or

- (b) For hearing it is not enough that the party should know the adverse material but it is further necessary that he must be given an opportunity to rebut the evidence. The adjudicating authority must give right to the party concerned to rebut the evidence and material placed by the other side. Explain this statement with case laws.
- Q.5 The State of Madhyabharat was established in the year 2015 through an Amendment to the State Re-organization Act. The Government of the State established its capital as Amar Nagar. Construction of the capital was started in the year 2016. The Government published a town plan and accordingly, plots were demarcated for allocation for low income, middle income and for business groups. Accordingly, the Government announced two new schemes known as Green Garden and Techno Gate. 600 plots were created in Green Garden and the said plots were classified for residential purpose. Plots in Techno Gate were mainly for commercial purpose. In April, 2018, the Government invited applications from the intending buyers through an advertisement published in (10)



newspapers. In March 2019, the Government issued a Notification under Section 34 of Madhyabharat (Extension of Civic Amenities) Act allotting 150 plots of Green Garden to various persons. Schedule to the Notification provided the list of persons to whom the plots were allotted. Section 34 empowers the Chief Minister to allot 25% of plots in a Government Township to Government Servants and Officers who will retire in course of next few years, Political Sufferers, Social Workers, Journalists, Judges, Sportspersons, Doctors, Defence Personnel and Indian Nationals who are presently staying abroad but want to settle in India, if it is satisfied that their services to the nation require special recognition. Section 34 provides that such allocation must be based the application of interested parties. Mr. Vinayachandra, a freedom fighter and a political activist, filed an application under the Act but failed to get a plot allotted in his name. Aggrieved by this decision, he filed a petition before the High Court challenging the allotment of and challenged the notification of the Government. He alleged that even after being eligible to get a plot in the capacity as a Freedom Fighter, Political Activist, Social Worker and Doctor, the Chief Minister had not allotted the plot because of the political rivalry along with the fact that he filed some cases against the Government alleging and exposing corruption before various forums. Mr. Vinaychandra alleged misuse of power, arbitrariness and malice in allocation of plots. The petition in which he cited the news report of Bharat News Express, which published a news item and reported that the plot allotment of Green Garden and Techno Gate were with biasness and the plots were allotted to ruling party members and the relatives of the Chief Minister. Enumerate the legal issues present in this case with the help of relevant case-laws.

- Q.6 Mr. Manoj entered into the service in 2005 as Assistant Engineer with Gujarat Electricity Corporation (G.E.C.) and subsequently promoted to the post of Executive Engineer in 2015. His name was recommended by the Department Selection Committee for selection for the post of Chief Executive Engineer (C.E.E.) of GEC in 2018. However, recommendation was returned as no decision could be taken by the State Government. On 21.04.2019, the State of Gujarat brought out a Regulation, Gujarat Electricity Board Officers Promotion Regulations, 2019 (Regulations 2019), made under Section 16 of the Gujarat Electricity Corporation Act, 1994. Section 16 of the Act provides for the power of the Government to make Regulations. Section 16 is quoted herein below: (10)

Section 16 (1)- 'The power to make Regulations conferred by this Section shall include the power to give retrospective effect, but no retrospective effect shall be given to any Regulations so as to prejudicially affect the interests of any person to whom such Regulations may be applicable.'

The new Regulations provide that the positions of Deputy Engineer and Executive Engineer are equivalent and eligible for consideration of appointment as C.E.E. The Regulations also added the requirement of total 15 years of service with G.E.B., as a condition for the appointment as C.E.E. The Regulations 2019 amended the Gujarat Electricity Board Officers Promotion Regulations, 1999. Under the 1999 Regulations, an officer in the rank of Executive Engineer with a total 10 years is eligible to be appointed as C.E.E. Mr. Manoj challenged the Regulation by filing a writ petition before the High Court. Holding the said Regulation valid, the court said that the power to decide qualifications come within the scope and powers of the Government. Aggrieved by this decision, Mr. Manoj filed an appeal before the Supreme Court of India. Decide the dispute.
