

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**  
Course: **Constitutional Law-II (Constitutional Bodies)**  
Semester-IV (Batch: 2017-22)

End Semester Examination: April-May 2019

Date: 29<sup>th</sup> April, 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.

**Part-A**

**Marks**

- Q.1 Karnavati is a State which is situated on the western coast of Bharat. It is the sixth largest State of Bharat with a population of more than 60,383,628 according to the 2011 census data. The State is governed by a legislative assembly of 182 members, elected on the basis of adult suffrage. In January 2017, State legislative election was held in which Karnavati Jantantrik Party (KJP) won the election with a huge majority and the government was formed under the leadership of Shri Dharendra Mehta. On 5<sup>th</sup> February 2017, during his speech in the House, Shri Mahesh Bhatt, an MLA of KJP, made severe allegations against Dharendra Mehta, Chief Minister and Shri Gumnam Singh, Finance Minister. Immediately, thereafter, a point of order was raised by another member of the assembly, Shri Satendra Nath, and on the said point of order the Speaker ruled as follows: "Whatever has been said about Gumnam Singh, such words would be expunged from the proceedings." (14)

Next morning Shri Sanjay Shah, editor of 'AAJ KAL' newspaper published a report of the speech of Mahesh Bhatt under a caption 'Bitterest Attack on Chief Minister'. On 2<sup>nd</sup> March 2017, Shri Rameshwar Singh moved a privilege motion in the House. On the same day, the House referred the matter to the Committee of Privileges. The Committee headed by the Chief Minister found that a *prima facie* case of breach of privilege has been made out against Sanjay Shah. The Secretary to the legislative assembly issued a show cause notice to Sanjay asking him to show cause why appropriate action should not be taken against him for the breach of privilege. Immediately after receiving the show cause notice and apprehending an adverse outcome, Sanjay approached the Supreme Court and filed a writ petition contending that the said show cause notice are in violation of his fundamental right under Articles 19 and 21 of the Indian Constitution. Frame the issues and place your arguments on behalf of both the sides.

**Part-B**

Answer **any three** of the following:

- Q.2 In 2016, the election was held for the State Legislative Assembly of Harit Pradesh. The Harit Pradesh Democratic Party (HPDP) secured absolute majority in the said election. The government was formed by HPDP under the leadership of Mr Ghanshyam Nath (12)

Mukherjee who was the leader of the HPDP. In the said election, only five members of the Harit Pradesh Loktantrik Party (HPLP) got elected to the State Legislative Assembly. In December 2018, all the five elected members of HPLP joined HPDP, the ruling party in the State. On account of such act on part of these five MLA's, Shri Shyamnath Mukherjee, the State Unit President of HPLP, filed five separate disqualification petition before the Speaker for disqualification of the said five elected members of HPLP. On the other side, these five MLAs submitted that they do not incur any disqualification under Schedule X of the Constitution as their case falls under Para 4 of the Schedule X. The Speaker rejected the disqualification applications filed by Shyam Nath Mukherjee on the ground of *locus standi* relying upon Rule 6(1) & (2) of the Members of Harit Pradesh Legislative Assembly (Disqualification on Ground of Defection) Rules, 1997. Rule 6(1) & (2) of the 1997 Rules, is extracted herein below:

“6 (1) No reference of any question as to whether a Member has become subject to disqualification under the Tenth Schedule shall be made except by a petition in relation to such Member made in accordance with the provisions of this rule.

(2) A petition in relation to a Member may be made in writing to the Speaker by any other Member:

Provided that a petition in relation to the Speaker shall be addressed to the Secretary.”

Shri Shyamnath challenged the order of the Speaker before the High Court and the same was upheld by the High Court. Shri Shyamnath filed an appeal before the Supreme Court challenging the order of the High Court. Based on the arguments of the parties, the Supreme Court has framed the following issues:

- (a) Whether the five MLAs of HPLP incur disqualification under Schedule 10 or does their case fall under Para 4 of Schedule 10?
- (b) Whether the disqualification petition filed by Shri Shyamnath before the Speaker is maintainable or not?

Consider yourself as an *amicus curie* and advise the Supreme Court on the above issues.

- Q.3 Explain the following: (12)
- (a) Joint Session of Parliament
  - (b) Nature of Veto Powers of the Indian President
- Q.4 Discuss different types of Bill. Distinguish between an Ordinary Bill, Money Bill and Financial Bill with the help of constitutional provisions. (4+8=12)
- Q.5 One of the former Chief Justices of India, Justice Sabyasachi Mukharji, characterised impeachment process as being “practically impossible. The process is just too cumbersome.” Do you agree with this statement? Justify your opinion in the light of the various impeachment processes initiated against the judges of the higher judiciary. (12)

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