

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Administrative Law**
Semester-II (Batch: 2018-19)

LL.M. End Semester Examination: May-2019

Date: 8th May, 2019

Duration: 3 hours

Max. Marks: 70

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 *“A Constitution to be living must be growing. If the impediments to the growth of the constitution are not removed, the constitution will suffer a virtual atrophy. The question of amending the Constitution for removing the difficulties which have arisen in achieving the objective of socio-economic revolution, which would end poverty and ignorance and disease and inequality of opportunity, has been engaging the active attention of Government and the public for some year’s now.”* – Swaran Singh Committee Report. (10)
- In view of the above observation, discuss the reasons for growth of Administrative Tribunals and India’s trust with tribunalization and transfer of judicial power to regulatory bodies.
- Q.2 “Law has reached its finest moments when it has freed man from the unlimited discretion of some ruler... where discretion is absolute man has always suffered.” Justice Douglas. (10)
- In view of the above observation, discuss the grounds of Judicial Review and the circumstances in which the court will interfere with the discretionary power exercised by the administration.
- Q.3 Write short note on **any one** of the following: (05)
- (a) Doctrine of proportionality
 - (b) Doctrine of Legitimate Expectation
 - (c) Central Vigilance Commission

Part-B

- Q.4 The rules of procedural fairness, as rules of natural justice were derived from natural law as is demonstrated by English cases of the seventeenth and eighteenth centuries. The first limb to be considered in this connection is the hearing rule. The natural justice hearing rule appeared in many cases decided by Chief Justice Coke, who played a leading role in its exposition and development of the remedy of mandamus where it had been breached, inferred it from the provision of the *Magna Carta* that: “No free man shall be taken or imprisoned ruined or disseized or outlawed or exiled or in any way ruined, nor will we go or send against him, except by the lawful judgment of his peers or by the law (10)

of the land”.

In the light of the above mentioned proposition discuss the cases decided by the Chief Justice Coke along with its application in the present day context by the Supreme Court of India.

- Q.5 According to De Smith, “Legal representation of the right quality before statutory tribunals is desirable, and that a person threatened with social or financial ruin by disciplinary proceedings in a purely domestic forum may be gravely prejudiced if he is denied legal representation.” (10)

Discuss the above stated statement along with your own illustrations and views in the light of different legislations and cases decided under them.

- Q.6 Write short note on ‘Speaking orders’. (05)

Part-C

Answer **any two** questions:

- Q.7 Ahmedabad College of Education (ACE), a recognised institution by the National Council for Teacher Education (NCTE), imparts ‘Bachelor of Education’ (B.Ed.). On the application of ACE, submitted in May, 2017, the NCTE, permitted an additional intake of students for B.Ed. course without seeking any accreditation and ‘Letter Grade B’ from National Assessment and Accreditation Council (NAAC). Subsequently, the NCTE, framed National Council for Teacher Education (Recognition Norms and Procedures) Regulations, 2018. The new Regulations added Regulations 8(4) and 8(5). As per Regulation 8(4), an institution is required to be accredited by NAAC with ‘Letter Grade B’, whereas as per Regulation 8(5), those institutions which had been granted additional intake in B.Ed. courses under the existing Regulations are required to get themselves accredited with the NAAC, with a ‘Letter Grade B’ before 1 April, 2019. (10)

Section 14 of the National Council for Teacher Education Act, 1993 empowers the NCTE to maintain teacher education, its performance appraisal system and to lay down norms and mechanism for enforcing accountability on recognised institutions.

Section 15 of the said Act provides that the NCTE, can determine as to which institution be allowed to offer new course or training in teacher education; for which the NCTE, is empowered under Section 32 to prescribe ‘condition’ for grant of such permission and recognition.

Section 32 of the said Act reads as follows:

“Power to make Regulations: (1) The Council may, by Notification in the Official Gazette, make Regulations not inconsistent with the Provisions of this Act and the Rules made thereunder, generally to carry out the Provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such Regulations may provide for all or any of the following matters, namely:

(a) Conditions required for the proper functioning of the institution and conditions for granting recognition under Clause (a) of Sub-section(3) of Section 14;

(b) Conditions required for the proper conduct of a new course or training and conditions for granting permission under Clause (a) of Sub-section (3) of Section 15.”

Aggrieved by the new Regulation, ACE, challenged the Regulations before the High Court of Gujarat. Decide the dispute in accordance with case-laws.

Q.8 Comment on the Advisory opinion in *Re Delhi Laws Act*, AIR 1951 SC 332, and identify the essential legislative functions based on various judicial decisions. (10)

Q.9 Raj Cinema holds license for exhibiting cinematograph films in its cinema theatres at Mumbai under the Maharashtra Cinemas (Regulations) Act, 2018 and Rules made thereunder, Maharashtra Exhibition of Cinematograph Films Rules, 2018. The Rules provide that no cinematograph exhibition shall continue after such time later than 1:00 am. Raj Cinema was exhibiting four shows but later they increased it to five shows starting with 10:00 am ending with 12:00 am. The State Government in exercise of its powers under Section 24 Maharashtra Cinemas (Regulations) Act, 2018, amended the 2018 Rules and made new Rules in 2019. Under the new Rules, no licensee shall exhibit more than four cinema shows in a day. In pursuance of the new Rules, Raj Cinema was directed to exhibit only four shows in a day. Raj Cinema challenged the Rules before the High Court of Bombay. Decide the petition. (10)

Preamble of the Maharashtra Cinemas (Regulations) Act, 2018 provides that it is an Act to provide for regulating exhibition by means of cinematographs and the licensing of places in which cinematograph films are exhibited in the State of Maharashtra and for other allied matters.

The Relevant Provisions of the said Act are as under:

Section 5: No person shall exhibit Cinematograph films in a place except in accordance with the license issued under the Act.

Section 8: Provided that the licensing authority shall not grant a license unless it is satisfied that the Rules made under the Act have been substantially complied with and adequate precautions have been taken in the place in respect of which the license is to be granted providing for safety.

Section 24: Power to make Rules-

- (1) The State Government may, by Notification, after publication, make Rules to carry out the purpose of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-
 - (a) The particulars to be given in an application for licence and the terms, conditions and restrictions, subject to which a licence may be granted under this Act and the fees to be paid in respect of such licence;
 - (b) The regulation of cinematograph exhibitions for securing public safety;
 - (c) Regulating the means of entrance and exit at places licensed under this Act; and providing for prevention of disturbance.
