

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Centre State Relations and Local Self Government
Semester-II (Batch: 2018-19)

LL.M. End Semester Examination: May-2019

Date: 6th 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

Answer **any three** of the following:

- Q.1 Parliament is empowered to make laws with respect to aspects or causes that occur, arise or exist, or may be expected to do so, within the territory of India, and also with respect to extra-territorial aspects or causes that have an impact on or nexus with India. Such laws would fall within the meaning, purport and ambit of the grant of powers to Parliament to make laws for the whole or any part of the territory of India, and they may not be invalidated on the ground of extra-territorial operation. Explain this position as laid down by the Supreme Court and analyse its application in subsequent cases. (13)
- Q.2 The Constitution of India envisages for a Tribunal to resolve the conflicts between two or more states with regard to sharing of waters of inter-state rivers or river valley. The legislation made thereunder also can exclude the jurisdiction of any court including the Supreme Court. The total exclusion of judicial authority is provided because of the nature of the problem for which legal solutions are by and large ineffective. This particular problem of sharing river waters encompasses among many other things, the political considerations which cannot be satisfied by judicial interpretations. In view of the above observation, analyse the jurisdiction exercised by the Supreme Court in various water disputes. What is the scope of judicial review in water disputes? (13)
- Q.3 The State of Madhyarashtra is a State in the Union of India. Elections to the 75 member Legislative Assembly of the State of Madhyarashtra took place on 3rd May, 2017. As per the notification issued by the Election Commission on the elected members of the Legislative Assembly, Socialist Party (SP) won 28 seats, Democratic Party (DP) won 21 seats, Janatha Congress (JC) won 17 seats, and Independents won 9 seats. The Governor invited SP's leader Mr. Kumar to form the new Government and the Government was formed with the support of 17 MLAs of JC and 4 independent MLAs. The Governor instructed the new Government to prove majority within 14 days. Accordingly, on 15th May, 2017, the Government proved the majority in the floor of the house. On 12th October, 2017. Mr. Ajay Raj, leader of DP, made a complaint before the Governor that the Government by using its power and by giving money for purchasing MLAs is trying to spilt his party. On 15th November, 2017, JC declared its withdrawal of support to the government and it claimed that it has the support to form the new (13)

Government. On 11th December, 2017, the Supreme Court issued an order in the petition of Ms. Mithila, leader of JC and directed the Governor to order for convening the Assembly Session but the Governor did not fix any date for the Assembly Session. On 20th December, 2017, the Governor, sent a report to President and on 22nd December, 2017, Presidential Rule was invoked in the State of Madhyarashtra. Presidential rule was challenged before the Supreme Court by leader of JC and DP. Decide the validity of Presidential Rule and explain the jurisdiction of Courts.

- Q.4 The State of Madhya Pradesh, under the MP Education Act, 2011, constituted an Institutional Pension Fund (IPF) for teachers in non-pensionable service. Under Section 3, the proportion of contribution to be paid by the teachers was specified, while under Section 4, contribution by the government and by the management of the school to IPF was also specified. In 2013, MP Teacher's Employment Conditions Act was passed. The preamble of the Act states that it is an Act to make provision for regulating payment of salaries to teachers and other employees of non- government educational institutions receiving grants from Government. Under Section 5 of the said Act of 2013, an institutional fund was constituted for payment of salary to the teachers and contribution to IPF, further it required contributions of the Government and management to be deposited in the institutional fund. The Act of 2013 did not prescribe any scheme for provident fund as such. The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (Central Act) was brought into force in 2014 through a notification in the Gazette of India dated 6th of March, 2014. In exercise of powers conferred by Section 1(3) (b) of the Employees' Provident Fund and Miscellaneous Provisions Act, the Central Government specified certain classes of establishments in which 20 or more persons were employed, as covered by the said Central Act. The establishments so covered includes any College whether or not affiliated with the University, as also any School whether or not recognised or aided by the Central or the State Government. It also covered any other institution in which the activity of imparting knowledge or training was carried on. State decided that the Central Act is not applicable to the aided schools of the State of Madhya Pradesh. Against this decision, School Teachers Association of MP approached Supreme Court. Decide the dispute. (13)

Relevant Entries of Seventh Schedule: List III- Concurrent List: Entry 24. Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.

List II- State List: Entry 41. State public services; State Public Service Commission.

Entry 42. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.

Part-B

Answer **any two** of the following:

- Q.5 Do you agree that Local Self Governance is the best method of governance under any Constitutional Law and legal system of a State? What are innate advantages in having Local Self Governance as a democratic method in solving the problems of heterogeneous and complex society? Explain. (08)
- Q.6 Do you agree that there is no other method like Local Self Governance for promotion of Sustainable Development and protection of environment? Explain this in the context of Plachimada struggle in the State of Kerala against Coca Cola and its Indian subsidiary Hindustan Coca Cola Beverages Private Limited (HCCBPL). (08)

- Q.7 The success of Local Self Governance rests with human and social psychology of the people living in the recognized legal jurisdiction where Local Self Governance as a democratic method is constitutionally permitted. Do you agree that the Local Self Governance is successful in India? Explain the intricacies of this grass-root democratic method with five success-tips. (08)

Part-C

- Q.8 The Telangana Panchayat Raj Act, 2018 which provided for the reservation of seats in Municipal Council in favour of SC, ST, Backward Class Category, Women for different Wards and also in favour of Chairperson of the Council. The election to the Municipal Council, Hindupur was held on 15.1.2019. There were 31 Wards in total and out of which 15 Wards were reserved for the members belonging to Scheduled Castes and 2 Wards were reserved for Backward Class Category. Ram Charan was elected from Ward No. 2, which was unreserved (General Category) and Pawan Kalyan was also elected from Ward No. 18, which was reserved for Backward Class Category. Thereafter, election was held to the Office of the President, Municipal Council, Hindupur on 02.3.2019 and all the 32 Municipal Councilors were participated in the election. Pawan Kalyan secured 19 votes, whereas Rama Charan got 13 votes and, therefore, Pawan Kalyan was declared as duly elected President of the Municipal Council, Hindupur. (15)

Ram Charan challenged election of the President of the Municipal Council mainly on the ground that as per the notification issued by the Competent Authority, the office of the President has been reserved for General Category and the same shall be filled-in from amongst the members belonging to General Category only and Backward Class Category candidates do not have the right to contest for the same. In addition to the above contention, the petitioner also challenged the constitutionality of following provisions under the Telangana Panchayat Raj Act, 2018:

Section 29 A : State Government shall have the power to dissolve of the Municipalities in public interest and hold elections at 'any time' before the expiry of five years.

Section 40 B : No Confidence Motion can be initiated by not less than half of the elected members of the Municipality against the President/Chairperson after completion of one year from the date of formation the Municipality and also subsequently after every one year block.

Section 61 A : No person shall be a member of Municipality who has more than two living children

Critically examine the issues, which arise out of the facts and also the Constitutionality of the above provisions in the light of the decided cases.
