

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: **Administrative Law**  
Semester-II (Batch: 2017-18)

LL.M. End Term Examination: April-May 2018

Date: 07<sup>th</sup> May, 2018

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 The Supreme Court, in its judgment on October 16, 2015 in the *Supreme Court Advocates-on-Record Association v Union of India* (NJAC), deeply dilated on the “impartial judge” being the hallmark of a democracy and approvingly referred to *In re Pinochet* case and the automatic disqualification of a judge “interested in a cause”. In 2001, in *Kumaon Mandal Vikas Nigam Ltd. v Girja Shankar Pant*, the court had declared, “a real danger of bias might well be thought to arise if there were personal friendship or animosity between the judge or any member of public involved in the case.” In 2012, in *R.C. Chandel v High Court of M. P.*, Justice R.M. Lodha cautioned that “a judge must be a person of impeccable integrity and unimpeachable independence” for the survival of democracy and rule of law.

Discuss the above mentioned observations (in different cases) of the Supreme Court in the light of Sahara-Birla case decided by the Supreme Court along with applicable Principles of Natural Justice with your own understanding.

- Q.2 There are two principal modes of hearing, one is oral hearing or personal hearing before the adjudicatory body and another is hearing through written representation. There is no fixed form of hearing procedure to be followed in various situations. It may vary from case to case, it is ultimately for the court to decide whether the hearing procedure followed in a specific case accords with natural justice or not.

Discuss the above mentioned proposal in the light of the decided cases along with your own view.

- Q.3 Write short note on the following: (5)
- (a) Right to Counsel

**PART-B**

- Q.4 Elucidate how the judicial review is concerned with reviewing not the merits of the decision but the decision making process itself and the grounds for judicial review of administrative action. (10)

- Q.5 Discuss the reasons for the growth of Administrative Tribunals in India in the light of 272<sup>nd</sup> Report of the Law Commission of India. (7)
- Q.6 Write short note on *any two* of the following: (4x2=8)
- Doctrine of Public Accountability
  - Doctrine of Legitimate Expectation
  - Doctrine of Proportionality

### PART-C

Answer any two questions

- Q.7 Gandhinagar Vendors Association (GVA) consists of wholesalers, distributors and vendors for various food items, food grains, fruits, vegetables and sugar in Gandhinagar. The grievance of GVA is that they have been asked to shift their business premises from the present place in the heart of Gandhinagar city, district shopping complex, Sector-21, to a new market yard called the Navin Mandi at New Chilloda which is at the outskirts of Gandhinagar city and seven kilometres away from the present market. All the traders have been informed that if they do not shift from their respective business places to Navin Mandi then the Krishi Utpadan Mandi Samiti, Gandhinagar, which is a statutory body, constituted under the Gujarat Agricultural Markets Act, (hereinafter referred to as the Gujarat Act), would not renew their licences. (10)

Section 7(2) of the Gujarat Act states, "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 of Gujarat issued the Gujarat Agricultural Markets Rules (Rules) dated 19 July 2017, issued under Section 7 (2) (a) of Gujarat Act. The Rule so made stated that the wholesale trade of certain commodities mentioned in schedule should be conducted at new market, Navin mandi and at the location specified in the said notification. By a subsequent notification dated 2 October 2017, wholesale trade of several other fruits and vegetables were also added to the schedule of the Rules. Foodgrain and vegetable traders were issued with notices to shift their business premises, including shops and godowns to the Navin Mandi. Against this, GVA filed petition before the High Court and challenged the Gujarat Agricultural Markets Rules. But it was rejected by the Court on the ground that order is proper and as per law. Against this order, an appeal was filed before the Supreme Court by GVA. Decide the appeal.

- Q.8 The Commissioner of Police, Gandhinagar issued a notification dated 17 December 2017 and prohibited movement of Mini Door Cabs (seven-seater auto rickshaws). The notification was issued in exercise of the powers conferred upon him under Section 21 of the Gandhinagar City Police Act (hereinafter referred to as 'Act'). Commissioner of Police, Gandhinagar informed the public that the movement of seven-seater auto rickshaws are prohibited in Gandhinagar and this restriction is imposed for the maintenance of safe and free flow of traffic, prevention of danger, obstruction and inconvenience to the public. (10)

Section 21 of the said Act reads as follows- Power to make rules for regulation of traffic and for preservation of order: The Commissioner of City Police, Gandhinagar may, from time to time, make rules not inconsistent with this Act in respect of the following. Such rules shall, in cases of clauses (a) be subject to the control of the Government and with regard to be

remaining clauses; sanction of the government shall be obtained prior to the enforcement of rules.

Clause (a): Regulating traffic of all kinds, in public street or public places, and regulating the use of streets and public places by persons walking, driving, cycling or accompanying or leading cattle with a view to prevent danger, inconvenience or obstruction to the public.

Auto rickshaw Drivers Association challenged this notification before the High Court. Decide the petition.

- Q.9 “Delegated Legislation is an expression which covers a multitude of confusion. It is an excuse for the legislators, a shield for the administrators and a provocation to the constitutional jurists.” Explain this statement with case laws of English and US Courts and analyse it with the decisions of the Supreme Court of India. (10)

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