

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Constitutional Law II
Semester- IV (Batch: 2019-24)

End Semester Online Examination: July-August 2021

Date: 24th July, 2021

Duration: 8 hours

Max. Marks: 50

Instructions:

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: 600-700 Words.

Answer Any Five**Marks**

- Q.1 *“In the matter of exercise of the powers under Arts. 72 and 161, the two highest dignitaries in our constitutional scheme act and must act not on their own judgment but in accordance with the aid and advice of the ministers. Article 74, after the 42nd Amendment silences speculation and obligates compliance.”* In light of the said statement and in light of Constitution (44th Amendment) Act, 1978, critically discuss the scope of President’s discretion under Article 72 of the Indian Constitution. (10)
- Q.2 The election for the 14th Legislative Assembly of the State of Vindhyaachal was held in February 2019. The results were declared on 10-04-2019. Mulayam Jadhav, Umesh Solanki and Swami Prasad were elected on the ticket of CNP. None of the political parties secured the requisite majority. Though the PJB was the single largest party, its attempt to form the Government was not successful. A coalition Government of CNP and NP was formed under the leadership of Ms Dayawati. This Government which was formed under the leadership of Ms Dayawati had a short life of about 13 months. On 05-01-2020 Disqualification Petition was instituted against Mulayam Jadhav, Umesh Solanki and Swami Prasad. The main allegations against the aforesaid persons were that they did not participate in the meetings of the party and the proceedings of the Assembly session held from 12-01-2020 onwards, and the conduct of all the aforesaid members was in violation of the whip issued by the CNP in this regard. On 10-06-2020 Mulayam, Umesh and Swami submitted their resignations to the Speaker. However, the Speaker did not take any call on the resignation of the above persons. The Speaker thereupon issued emergent notices between 22-06-2020 to 24-06-2020 to all the three regarding the pending disqualification petitions to appear before him on the date of hearing fixed for 07-07-2020 and 08-07-2020. While the aforesaid disqualification petitions/resignation letters were pending, on 24-06-2020 the CNP had again issued a whip requiring their members of the Legislative Assembly to attend the proceedings of the House on 26-06-2020. The trust vote was finally taken up for consideration on 27-06-2020. All the three members did not attend the House. As a result, the CNP and NP coalition Government, under the leadership of Ms. Dayavati was in a minority, (3+3+4=10)

resulting in the resignation of Ms. Dayavati as Chief Minister. On 29-06-2020, the Speaker passed the following orders:

- a) Rejected the resignation of the three members asserting that they were not voluntary or genuine.
- b) Disqualified all the three from the membership of the House, and
- c) Disqualified them till the end of the 14th Legislative Assembly term.

Aggrieved, by the aforesaid disqualifications, all three of them approached the Supreme Court under Article 32 of the Constitution. Decide the petition.

- Q.3 “Even after more than seventy years, ordinances are neither exceptional nor limited, they are somewhat parallel method in India’s parliamentary system.” Do you agree with this statement? In light of the above statement, identify and discuss briefly **any two** Supreme Court judgements which you feel have played a prominent role in restricting the misuse of ordinance making power. (10)
- Q.4 “**The process of appointment of judges to the superior courts was possibly the best kept secret of the country.**” Do you agree with this statement? What measures would you suggest to strengthen the existing system of appointment of judges? (10)
- Q.5 “*The Election Commission occupies a pivotal place in the scheme of the Indian Constitution. During recent years it has willingly or unwillingly, abdicated its independent, supra-governmental authority and accepted for itself the role of a mere official department charged with the conduct of elections.*” To what extent do you agree with this statement? Justify your answer with the support of relevant materials. (10)
- Q.6 Write a case comment on *Jayant Verma and Ors. Vs. Union of India* decided on 16.02.2018. (10)
