

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Administrative Law  
Semester- II (Batch: 2020-21)

End Semester Online Examination: June 2021 (LLM)

Date: 26<sup>th</sup> June, 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.

- |  | <b>Marks</b>       |
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| <p>Q.1 A writ of mandamus was sought by the petitioner directing the Government to promote him. A Single Judge allowed the petition ordering the authorities to promote the petitioner <i>forthwith</i>. But the order was set aside by the Division Bench. After two years, a fresh petition was filed for payment of salary and other benefits in the terms of the judgment of the Single Judge (which was reserved in appeal). It was dismissed by the Single Judge. The order was challenged in appeal which was heard by a Division Bench to which one member was a judge who had allowed the earlier petition. The appeal was allowed and certain reliefs were granted. The State has approached the Supreme Court.</p> <p>In the light of the above mentioned facts discuss the following (Word Limit: 900-1000 words) :</p> <ol style="list-style-type: none"> <li>a) What are the possible contentions of both the parties?</li> <li>b) Which principle/principles of Natural Justice be applied?</li> <li>c) Clearly give reasons for the application of a particular principle or principles of Natural Justice.</li> </ol> | <p>(4+3+3= 10)</p> |
| <p>Q.2 Analyze the following cases with their question of facts and question of laws: (Word Limit: 900-1000 words)</p> <ol style="list-style-type: none"> <li>a) <i>S. P. Sampath Kumar v. Union of India</i>(1987) 1 SCC 124</li> <li>b) <i>L. Chandra Kumar v. Union of India</i>(1997) 3 SCC 261</li> </ol>   | <p>(5x2= 10)</p>   |
| <p>Q.3 New cinema and theatres (NCT) hold license for exhibiting Cinematograph films in their cinema theatre at Gandhinagar under the Gujarat Cinemas (Regulations) Act, 2017 and the Rule made there under, the Gujarat Exhibition of Cinematograph Films Rules, 2018. Rule 20 provides that a person holding a license can exhibit films in the theatre. Rule 21 provides that cinema theatres cannot exhibit films not later than 11.30 PM. Rule 22 makes it mandatory that no licensee shall exhibit more than four cinematograph shows in a day. Rule 23 made under this Act provides that films can be screened in contravention of Rules 21 and 22 in Ahmadabad Municipal area when it is been exhibited in a multiplex. NCT was holding four shows but later they increased it to five shows starting at 10 AM ending at 11.30 PM. In pursuance of the Rule 22, NCT was directed to exhibit four shows only in a day. NCT Challenged the Rules before the High</p>   | <p>(10)</p>        |

Court of Gujarat. Decide the dispute, by identifying issues and making arguments with case laws. (Word Limit: 600-700 words)

Relevant provisions of The Gujarat Cinemas (Regulations) Act, 2017

Preamble of the Act provides that an Act to provide for regulating exhibiting by means of cinematographs and the licensing of places in which cinematograph films are exhibited in the State of Gujarat and for other allied matters.

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

Section 8: - Provides 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 proving 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;
  - d) Rules made under there under shall have the effect notwithstanding anything contained in any law for the time being in force;
  - e) Government through rule can make modifications to provisions of this Act to give effect to any policy of Government.

Q.4 “When the legislature confers a discretionary power on an administrative authority, it is clear that the matter is left to the discretion of that authority. In this area, the courts have only a limited power of review. The power of the courts to review the exercise of discretionary power originated from the presumption that any authority should act within the boundaries of law and must exercise the discretion for the purpose for which it was granted by the legislature. The courts do not act as an appellate authority but can only decide whether the exercise was legal”. Based on this statement analyse the control of administrative discretion. (Word Limit: 600-700 words) (10)

Q.5 The Government of India has issued an Order under Section 14 of the Bureau of Indian Standards Act, 1986, (Act), titled as, the Electrical Wires, Cable appliances and Protection of Devices and Accessories (Quality Control) Order 2019. When the Order was brought into force, it has included electrical wires, cables, appliances protection (10)

devices and accessories and prescribed the standards wherein it has made it obligatory for compulsory registration by the manufacture of the products and also to obtain a license under the Act. As per Clause 2, for the process of manufacturing the products such as, electrical wires and cable appliances there is a requirement of license according to the provisions of the Act and the Order. Clause 3 of the order prohibits manufacture, storage and distribution of products contravention of Clause 2. Clause 4 provides for prohibition from using the prohibited products and mandated that such prohibited products, if produced, must be destroyed within three months from the date of commencement of the Order. Annexure of the said order contain a list of industries which are prohibited to produce above said electric items which includes Sri Balaji Industries. Sri Balaji Industries was a registered small-scale industry with Government of Karnataka and has been engaged in manufacturing the electrical switch gears namely electric motor starters and is a dealer of switch gears. They have established the industry with a small investment and running the same over decades. The switch gears manufactured by them are said to be of good quality and are second to none in the market. There are said to be no complaints whatsoever in the market as to the quality of switch gears manufactured by them. The said Sri Balaji Industries also have gained goodwill in the market. Sri Balaji Industries as well as the labourers are depending on the earning from the units established by them. They have established the infrastructure for manufacture of switch gears by investing their lifetime savings and borrowings. Sri Balaji Industries wants to challenge the order and prohibition made against them and has approached you. Provide them with your legal advice. (Word Limit: 600-700 words)

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