

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

**Course: Centre State Relations and Local Self Government
Semester- II (Batch: 2020-21)**

End Semester Online Examination: June 2021 (LLM)

Date: 24th 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.
- Word Limit: 10 Marks: 600-700 Words.

Marks

- Q.1 The State of Uttar Bharat is a State in the Union of India. The election for the 160 seats of the State Legislative Assembly was conducted on 24th February, 2018. On 28th February, 2018, the Election Commission issued the notification of the elected members. Accordingly the Socialistic Communist Forum (SCF) won 77 seats, the Communist Marxist Party (CMP) won 17 seats, the Lokshakthi Congress (LC) won 62 seats and the Democratic Janatha Party (DJP) won 4 seats. After the election under the leadership of Mr. Mahadev Kumar, leader of SCF, a new front was formed in Uttar Bharat known as Uttar Bharat Front (UBF). UBF was consisting of SCF and CMP. Mr. Mahadev Kumar was elected as the leader of UBF and he formed the new Government in March 2018. 20 Ministers were represented from SCF and 5 were from CMP. During October, 2018, DJP declared their support to the ruling Government and joined with UBF. 2 MLAs of DJP were made as ministers and it provoked CMP and they in turn demanded 3 more ministerial posts and the same was turned down by SCF. During December, 2018 CMP decided to quit the UBF and withdrew the support of the Government and the same was informed to the Hon'ble Governor. During January, 2019, 2 MLAs of DJP informed the Speaker that they formed a new party named as Uttar Bharat Janatha Party (UBJP) and continued to support the Government. On 2nd June 2019 UBJP withdrew the support of the Government. A new forum Known as Congress Democratic Forum (CDF) was announced by the parties consisting of LC, CMP and UBJP and elected Mrs. Harshini Singh as the Leader of the forum and approached the Hon'ble Governor and claimed to form the new Government. The Governor instructed Mr. Mahadev Kumar to prove majority within one week. The Speaker disqualified the UBJP MLAs under Anti-defection Law. On 13th June 2019 Mahadev Kumar lost majority as the confidence motion failed before the Legislative Assembly. 14 MLAs of SCF voted against the confidence motion. On 14th June 2019 the Governor sent a report to the Hon'ble President, where it was informed that the Government lost majority in the house and recommended for Presidential Rule. On the same day, the State Government was dismissed and Legislative Assembly was suspended. Mrs. Harshini Singh filed a Writ petition before the High Court and the Court dismissed

(10)

the petition and held that Presidential Proclamation is correct. The decision was challenged before Supreme Court and appeal was filed on 14th July, 2019. On 20th July 2019, the Parliament approved the proclamation and the Governor dissolved the legislative Assembly on 24th July, 2019. Dissolution of Legislative Assembly has been challenged before Supreme Court by the MLAs and the Supreme Court clubbed the appeal and the petition. Decide this case based on appropriate legal reasoning and settled principles of Indian Constitutional Law.

- Q.2 The State of Vindhyaasthan is a State situated in the western part of India. State Legislature passed a legislation titled Vindhyaasthan Private Colleges (Regulation) Act, 2018, (herein after referred as Act) under Entry 25 of List III. The legislation provides the provisions of granting permission to private management to start new engineering colleges under the self-financing method without any financial commitment to the Government but subject to certain conditions. The Vishwa Vidyalaya Institutions of Technology (VVIT) applied to the Government for a permission to start a private Engineering College in Amargadh. The Government granted permission to start college under the name Mahatma Gandhi College of Engineering (MGCE). The permission was to offer three degree courses with the intake of 120 students per year, 40 students in each course in the subjects (1) Mechanical Engineering (2) Electronics and Communications Engineering (3) Computer Science and Engineering with the condition that the VVIT can admit candidates, a maximum of 40% of its choice and remaining 60% would be allotted by the Director of Technical Education, State of Vindhyaasthan, from among the list of candidates prepared for admission to Govt. Engineering Colleges. The Government as per the Act, stipulated the conditions that if any of the condition imposed by them was not fulfilled, the permission would be withdrawn and the Govt. will have the right to take over the college with all its movable and immovable properties including endowment and cash balance without paying compensation. Pursuant to this, MGCE got affiliation from the University of Amargadh. (10)

On 09.08.2019, a High-Powered Committee assessed the functioning of self-financing Colleges and reported that MGCE has not fulfilled the conditions imposed by the Government. After hearing the VVIT and MGCE, the affiliation to MGCE for its future courses were withdrawn and the Government ordered for a takeover of the College under the respective provisions of the Act. Against this order, VVIT filed a writ petition before the High Court. The High Court upheld the arguments of VVIT and held that the State Government cannot withdraw the permission of the technical Institutions based on the Act, as it is governed by the All-India Council for Technical Education Act, 1987, and struck down the provisions of Vindhyaasthan Private Colleges (Regulation) Act and the orders of the State Government. The High Court held that the only course open to the State Government was to refer the matter to the All India Council for Technical Education and under the Central Act the duty was imposed on All India Council for technical Education for recognizing and derecognizing any technical institution in the Country.

Relevant Entries:

Entry 66, List I – “Coordination and determination of standards in institutions for higher education or research and scientific and technical institutions”

Entry 25, List III – “Education including technical education, medical education and Universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I; vocational and technical training of labour”

The State Government appealed before the Supreme Court claiming that they got the power to legislate under the Concurrent List and the Vindhya Pradesh Private Colleges (Regulation) Act, 1958 is a valid legislation and based on this they got the power to withdraw permission granted to an institution. Decide the Appeal.

- Q.3 The River Jaladhara originates in the north east of Vananadhi District of Neerrashtra, a State of Union of India, and continues its journey for 198 kilometres before entering the Bay of Bengal. Out of the said 198 kilometres, a length of 144 kilometres lies in the State of Neerrashtra, 16 kilometres from the border between the State of Neerrashtra and Surya Pradesh, a State of Union of India, and the remaining 38 kilometres lies within the State of Surya Pradesh. The said river and the valley is fed by the South-West monsoon beginning in the middle of June and ending in the month of October each year and is followed by the retreating monsoon and North-East monsoon till the end of January. According to the State of Neerrashtra, about 80% of the total volume of water comes from the catchment area lying in their State. While the farmers in Surya Pradesh utilize 16 TMC of water from the river, the inhabitants of Neerrashtra utilize 124 TMC for drinking purposes and water tanks etc. in the up-stream and downstream of Vananadhi. During the period from 1990-94, the State of Surya Pradesh proposed the construction of Naveen Canal and Niyal Canal across the Jaladhara river. An agreement was signed between the Chief Engineers of Neerrashtra and the Surya Pradesh. Surya Pradesh completed the construction of Naveen Canal in the year 2004. Thereafter, it also started constructing Niyal Canal. Several meetings were held between the officials, including the Chief Ministers of the two States, and agreements were signed pertaining to allocation of water of the Naveen Canal. Based on the sensitivity study, State of Neerrashtra raised the contention of revision of the height and length of the walls of Canals, and took a position that the design of which need to be agreed by the Neerrashtra Government. At this stage, while considering the technical design of the Niyal Canal, the Government of Surya Pradesh announced a new project by the investment of Rs.1050 crores and announced that the waters of the Jaladhara river would be diverted at Vananadhi to a 34-kilometer-long Flood Flow Canal and be stored in the Nilamandalam reservoir to irrigate 1.07 lakh acres of land by utilizing 19 TMC of water. It was apprehended by the State of Neerrashtra that the said proposed project would deprive the villagers of Neerrashtra lying on the opposite bank in the downstream from even dry-weather flow and there was also a possibility of shifting of the river course itself. The Government of Neerrashtra, rejected the new project. State of Surya Pradesh continued with its construction work on the Flood Flow Canal by continuing with land acquisition and other preliminary works. (10)

The State of Neerrashtra approached the Supreme Court to resolve the dispute and the State also approached Union of India for resolution of dispute. However, no action was taken by the Government of India with regard to the request made by the Government. Decide the case.

- Q.4 Though the Panchayat Raj Institutions have got the constitutional status since 1992, but it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons including absence of regular elections, prolonged supersession, issues pertaining to reservation of seats, newly introduced disqualification clauses, incorporating minimum qualification for contesting elections, inadequate devolution of powers and lack of financial resources etc. In the light of the above mentioned issues and observations of the Supreme Court in various cases, examine the provisions of the Constitution (Seventy-third Amendment) Act, 1992 and make suitable suggestions for strengthening the Panchayat Raj system in India. (10)
- Q.5 Explain the decision of the Supreme Court of India in *GVK Industries Ltd. and Anr. v. The Income Tax Officer and Anr.*, (2011)4SCC36. Analyse the application of established principles of this case in subsequent cases. (10)
