

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Law relating to Trust and Not for Profit Organisation**
Semester- IX (Batch: 2018-23)

End Semester Examination: November 2022

Date: 12th Nov, 2022

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- 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.
- **Bare Act is not allowed.**

- | | Marks |
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| <p>Q.1 “Any organisation which is self-governed, cannot be subjected to overarching State control. As long as its decisions are well-informed, and grounded on relevant considerations, the interests of the trust are those defined by its members. Any measure of public control enacted through express stipulations in law, should not be expanded to such an extent that the right to freedom of association, under Article 19 (1) (c), is reduced to an empty husk, bereft of meaningful exercise of choice.”</p> <p>In light of the statement, critically analyse the role of State Charity Organisations in looking after the properties and administration of public charitable trusts. Would it be possible to dispose of the trust property without the prior permission of the Charity Commissioner/Registrar of Public Trust as the case may be?</p> | (10) |
| <p>Q.2 A trust has been established by 'R' for the benefit of his three grandsons, 'J' (16 years old), 'K' (19 years old), and 'N' (21 years old). 'R1', 'M', and 'R2' have been appointed as trustees. The trust consists of immovable properties including a few parcels of land, shares, and cash worth Rs. 18,00,000. Also, despite 'R1' 's inexperience and ignorance of business affairs, he has accepted the trust.</p> <p>'Q', who is the brother-in-law of 'R1', was allowed to purchase one of the immovable properties of the trust from 'R1' and 'R2'. Further, both the trustees also bought poor-quality office equipment for the purpose of discharging the services in the trust in a smooth and comfortable manner. A few pieces of equipment were damaged within a short period of time.</p> <p>Moreover, the trustees decided to invest some trust funds. They enlisted the help of a friend who, after running his own business for several years, has more experience in commercial matters. As a result, they transferred Rs.2,00,000 from the trust fund into the friend's bank account with the instruction that it should be handled wisely. Rather than investing in the trust fund, the friend spends it on gambling and other such activities.</p> | (12) |

Additionally, trustees wrongfully purchased land and sold it to Mr. 'G' for a sum of Rs.2,00,000.

Furthermore, 'M' was a dormant trustee and was largely disinterested in the trust's affairs. Interestingly, 'M' has now settled abroad. Also, 'R2' wants to be discharged from the trust. However, the trust deed does not contain any clause for the discharge of the trustee.

'N' wants to transfer his beneficial interest in favour of 'T' who is a cousin of 'N' and is facing significant financial difficulties.

'J' is showing remarkable academic performance, and has secured admission at a selective private school in Delhi. His mother, 'W', has approached the trustees, asking for the income from 'J's share of the trust fund to put towards the school fees. She also wants to use some of the income to pay off her personal debts that she has recently accrued.

All the beneficiaries want that, one of the trust properties (land) should be sold to 'S' who is ready to pay a huge amount for the said land.

Advise the trustees and the beneficiaries wherever required. Substantiate your answer with the help of leading case laws, suitable examples, and relevant provisions of the Indian Trusts Act, 1882.

- Q.3 Ram wishes to form a Non- Governmental Organisation (NGO) by creating either a Trust, a Society, or a Section 8 Company. Provide him with suggestions based on the process, advantages, and disadvantages associated with each form. Explain the differences between each form as well. (8)
- Q.4 "A suit under Section 92 is a suit of a special nature which presupposes the existence of a public trust of a religious or charitable character. Such a suit can proceed only on the allegation that there was a breach of such trust or that the direction of the Court is necessary for the administration of the trust and the plaintiff must pray for one or more of the reliefs that are mentioned in the section." Based on the statement, critically evaluate how courts under Section 92 act as guardians of the public trust. In addition, analyse the concept of charity and charitable object/purpose. Furthermore, explain how under Section 92 the court may apply the properties or the fund of public trust where its object is no longer capable of being achieved. Substantiate your answer with the help of leading case laws and suitable examples. (10)
- Q.5 Write a short note on **any two** of the following: (5x2=10)
- a) Social Stock Exchange
 - b) Arbitrability of trust disputes in India
 - c) PM CARES Fund as charitable trust
