

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Administrative Law
Semester- II (Batch: 2023-24)

End Semester Examination: April 2024 (LL M)

Date: 27th April, 2024

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.

Answer Any Five

Marks

- | | | |
|-----|---|------|
| Q.1 | <p>The procedure for levying municipal taxes and the power of Government in regard to those taxes is laid down in Section 82 of the Gandhinagar Municipal Corporation Act, 2021, hereinafter termed as the Act. The procedure as prescribed in the said Section is that a resolution intending to impose a tax has to be passed by the Corporation and that resolution is required to be published in the Official Gazette and the local newspapers. The taxpayers can then submit objections and after considering such objections received during the specified time the Corporation may by resolution determine to levy the tax or duty. When such a resolution has been passed, the Commissioner is required to publish forthwith a notification in the Official Gazette and the newspapers as set out in Section 84 of the Act. This notification is to specify the date from which, the rate at which, and the period of levy, if any, for which such tax is levied. Municipal Tax was imposed on the traders of Gandhinagar after the resolution of the Municipality and its publication in the official Gazette. Gandhinagar Traders Association Challenged the imposition of Tax before the High Court. Decide the Petition. (Word Limit: 600-700 words)</p> | (10) |
| Q.2 | <p>City Max Cinema Theatres holds a license for exhibiting Cinematograph films in their Cinema theatre at Ahmedabad under the Gujarat Cinemas (Regulations) Act, 2020 and Rule made there under, Gujarat Exhibition of Cinematograph Films Rules, 2023. As per the Rules, no Cinematograph exhibition shall continue after such time not later than 11:30 PM. City Max Cinema Theatres was holding four shows but later they increased it to five shows starting at 10:00 AM and ending at 12:30 A.M. The State Government in Exercise of its Powers under Section 17 of Gujarat Cinemas (Regulations) Act, 2020, framed the Rules and the Rule 26 provides that no licensee shall exhibit more than four Cinematograph shows in a day. In pursuance of the Rule 26, City Max Cinema Theatres was directed to exhibit four shows only in a day. City Max Cinema Theatres challenged the Rule before the High Court. Decide the Petition.</p> | (10) |

Relevant Provisions: The Preamble of the Act provides that an Act to provide for regulating the 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 17:- 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 the prevention of disturbance. (Word Limit: 600-700 words)

- Q.3 Mr. Vijay was appointed as Block Development officer by the Agricultural Development Board, Gandhinagar, by an appointment letter dated 23.4.2021, and was confirmed to the service in that post on 22.04.2022. The conditions of service of the employees of the Agricultural Development Board, a statutory board, were governed by the provisions of the Gujarat Agricultural Market Development Act and Rules made thereunder. At the time of appointment, the services of the respondent were not transferable as per the provisions of the Rules as then-prevailing, that is, Agricultural Market Development Rules. His appointment letter also did not include any condition for transfer from one Board to another. By a notification dated 16.12.2022, the Rules were amended and a new rule, Rule 5-C was added based on the power under Section 47 Gujarat Agricultural Market Development Act to provide for the transfer of the services of the employees of the Agricultural Development Boards from one post in one Board to another post in another Board within the State. Mr. Vijay was transferred to the Agricultural Development Board, Rajkot. Being aggrieved by the order of transfer passed under Rule 5-C, he filed a writ petition in the High Court challenging the validity of the order of transfer on the ground that Rule 5-C is ultra vires to the provisions of the Gujarat Agricultural Market Development Act and as such, is void. Decide the petition. (10)

Relevant Provisions for Consideration: Section 47 of Gujarat Agricultural Market Development Act: - Power to make Rules:

(1) The State Government may after previous publication, make rules to carry out the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) The appointment, supervision, suspension, removal, dismissal, and punishment of servants of Boards;

Rule 5-C reads as follows: (1). The service of a servant shall be transferable from one post in one Board to another post in another Board. Provided the posts in both the Boards are similar and carry the same scales of pay.

(2) Subject to such general directions as the State Government may issue from time to time, the Principal Secretary, Agricultural Department, or such other authority as may be authorised by the State Government on this behalf, shall be the competent authority to transfer a servant under this rule.

(3) A servant on transfer under sub-rule (1) from one Board to another may, for determination of seniority and eligibility for promotion opt:

(i) To be governed by the conditions applicable in this behalf to the servants of the Board from which he has been transferred, transferor Board;

(ii) To be governed by the conditions applicable in this behalf to the servants of the Board to which he has been transferred, the transferee Board,

Provided that where a servant does not opt under this rule within thirty days from the date of assumption of charge in the transferee Board, he shall, for purposes of promotion and seniority, be governed by the conditions in application on this behalf to the servants of the transferor Board.

(4) Save as provided in sub-rule (3), the terms and conditions of service of a servant transferred under this rule shall be deemed to apply to the servants of the transferee Board.

(5) Where the servant opts under clause (ii) of sub-rule (3), the service put in by him under the transferor Board before his transfer shall be deemed to be service under the transferee Board. (Word Limit: 600-700 words)

- Q.4 Administration is an individual's interface with the State. Due to radical change in the philosophy regarding the role and function of the State (from *laissez faire* to welfare), the opportunities of interaction with administration have increased manifold and continue to increase further. The situation is such that administrative actions impinge on every aspect of an individual's life. Due to unprecedented rise in state intervention in an individual's (whether citizen or non-citizen) life, the possibilities of accumulation of uncontrolled power and of arbitrariness in its exercise too has increased. This in turn has started adversely affecting legal rights granted to an individual by the law. Therefore, administrative law has been systematically developed as an instrument to ensure that the powers entrusted or delegated to the administrative authorities are exercised strictly in accordance with the law. In the light of the above mentioned proposition, evaluate the role of *audi alteram partem* and the exceptions to it along with decided cases. (Word Limit: 900-950 words) (10)
- Q.5 Administrative tribunals are dedicated governmental organizations recognized under legislation to implement parliamentary policy. Decision making power is conferred upon administrative tribunals in order to provide a more expeditious, less formal and sometimes less expensive method than the courts for deciding definite types of disputes or issues. Administrative tribunals also provide a forum in which complex issues can be decided by adjudicators with expertise in the particular field. Discuss the above mentioned outline in the light of L. Chandra Kumar v. Union of India [(1997) 3 SCC 261] (Word Limit: 900-950 words) (10)
- Q.6 Write short note on the following: (Word Limit: 400-500 words) (5x2=10)
- Subconscious bias.
 - One who decides must hear.
