

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**  
Course: **Constitutional Law-II (Constitutional Bodies)**  
Semester-IV (Batch: 2014-19)

**End Semester Examination: April-May 2016**

**Date: 1<sup>st</sup> May, 2016**

**Duration: 3 hours**

**Max. Marks: 50**

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Bare Act is not allowed.**

Answer **any five** questions.

**Marks**

- Q.1 On 12-03-2015, a private TV News Channel Aajkal had telecasted a programme depicting 10 MPs of House of People (Lok Sabha) accepting money, directly or through middleman, as consideration for raising questions in the House, under the caption 'Operation Pandava'. On the same day, the Speaker constituted an enquiry committee. The committee after due investigation submitted the report before the House. The report of the inquiry concluded that the evidence against 10 members of Lok Sabha was incriminate; the plea that the video footages were doctored/morphed/edited had no merit; there was no valid reason for the committee to doubt the authenticity of the video footage; the allegations of acceptance of money by the 10 members had been established. The act of acceptance of money had a direct connection with the work of Parliament and constituted such conduct on their part as unbecoming of Members of Parliament and also unethical and calling for strict action. The majority report also recorded the view that in case of misconduct or contempt committed by its members, the House can impose punishment in the nature of admonition, reprimand, withdrawal from the House, suspension from service of the House, imprisonment, and expulsion from the House. The majority report recorded its deep distress over acceptance of money by MPs for raising questions in the House and found that it had eroded the credibility of Parliament as an institution and a pillar of democracy in this country and recommended expulsion of the 10 members from the membership of Lok Sabha finding that their continuance as Members of the House would be untenable. One member, however, recorded a note of dissent for the reasons that in his understanding of the procedure as established by law, no member could be expelled except for breach of privileges of the House and that the matter must, therefore, be dealt with according to the rules of the Privileges Committee. On the report of the Inquiry Committee being laid on the table of the House, a Motion was adopted by Lok Sabha resolving to expel the 10 members from the membership of Lok Sabha, accepting the finding as contained in the report of the committee that the conduct of the members was unethical and unbecoming of the Members of Parliament and their continuance as MPs is untenable. On the same day, the Lok Sabha Secretariat issued the impugned notification notifying the expulsion of 10 MPs with effect from the same date. Aggrieved by Speaker's order, the expelled members filed a writ petition before the

(10)



Supreme Court challenging their expulsion from the House. Frame the issues and place your arguments on behalf of petitioners and respondents?

- Q.2 Decide, on the basis of constitutional provisions & supreme court judgements, whether the following members incurs disqualification from the membership of State Legislative Assembly: (10)
- (a) Mr. Raghunath Savaliya & Mr. Mulayamsing Vyas members of the Gujarat Legislative Assembly elected in the general elections held in 2015. Both of them were candidates set up by Gujarat Samaj Party (GSP). Both of them were expelled from GSP party on January 8, 2014. On March 16, 2014 the Speaker of Gujarat Legislative Assembly declared them as 'unattached' members of the Assembly. In April 20, 2014, both the members joined another political party called Gujarat Party (GP). In April 25, 2014, a member of the Legislative Assembly Shankar Dayani filed a petition before the speaker for their disqualification.
- (b) The elections for the constitution of the 14<sup>th</sup> Legislative Assembly of the State of Madhya Pradesh were held in February 2012. None of the political parties secured the requisite majority. A coalition Government was formed, headed by Ms. Dayawati, leader of the Samaj Rakshan Party (SRP). The ministry was formed in May, 2012. On 25.8.2013, the cabinet took a unanimous decision for recommending the dissolution of the Assembly. Based on it, on 26.8.2013, Ms. Dayawati submitted the resignation of her cabinet. Apparently, after the cabinet decision to recommend the dissolution of the Assembly, the leader of the Maha Hind Party (MHP) Mulayamlalu Gowda stake his claim before the Governor for forming a Government. On 27.8.2013, 15 Members of the Legislative Assembly elected to the Assembly on tickets of S.R.P, met the Governor and requested him to invite the leader of the MHP to form the Government. The Governor did not accept the recommendation of Dayawati cabinet for dissolution of the Assembly. On 29.8.2013, the Governor invited the leader of the MHP, Mr. Mulayamlalu Gowda to form the Government and gave him a time of two weeks to prove his majority in the Assembly. On 4.9.2013, Mr. Maurya Prasad, President, State Unit of SRP, who lost the 14<sup>th</sup> Legislative Assembly Elections of Madhya Pradesh, filed a petition before the Speaker.
- Q.3 On 12-3-1993, the commercial hub of the country, the city of Bombay, witnessed an unprecedented terrorist act sending shock waves throughout the world. This was the first ever terrorist attack in the world where RDX was used on a large scale basis after the world war-II. Several persons including Mr. Killer were arrested in connection with the terrorist attack. In order to inquire into the matter and render speedy justice, a Special Judge (TADA) was nominated. The special court pronounced the judgement on 12-9-2006 and awarded sentence to death under section 3(3) of TADA and s. 120B of IPC to Mr. Killer. He filed an appeal before the Supreme Court of India under Section 19 of the TADA Act. On 21 March 2013, the Supreme Court bench of P.Sathasivam,J. and Dr. B.S.Chauhan,J. confirmed his conviction and death sentence. He filed a review petition seeking review of Supreme Court's judgment confirming his death sentence. On 30 July 2013, division bench dismissed his review petition by circulation. On 6 August 2013, Killer's brother filed a mercy petition before the President of India. However, the President rejected Killer's petition for clemency on 11 April 2014. The same was informed to Killer on 26-5-2014. Mr. Killer filed a writ petition before the Supreme Court as the issue of oral hearing of review petitions against death sentences was being heard by the Supreme Court. On 1 June 2014, Justices J. Khehar and C. Nagappan imposed a stay of execution while a plea from Killer, that review of death penalties (10)



should be heard in an open court rather than in chambers, was heard by a constitution bench of the Supreme Court which was then extended in December 2014. On 24 March 2015, open court hearing began on Mr. Killer's review petition. On 9 April 2015, Supreme Court bench of Justice Anil Dave, J.Chelameswar, J. & Kurian Joseph, J. dismissed his review petition. On 30 April 2015, Maharashtra Government issued a death warrant setting 30 July 2015 as the date for his execution. He then filed a curative petition before the Supreme Court on 22 May 2015, which was rejected on 21 July 2015 by a bench of CJI H.L.Dattu, Thakur, J., & Anil Dave, J. Meanwhile, Killer then filed a mercy petition with the Governor of Maharashtra and then filed a writ petition before the Supreme Court of India praying for a stay on his execution. He claimed that the death warrant was illegal, as it had been issued before he had exhausted all his legal avenues of appeal. The writ petition came up for hearing before a SC bench consisted of Justice Anil Dave and Justice Kurian Joseph. During the hearing of the petition, the disagreement arose between the two judges. Due to the difference of opinion the matter was placed before the three Judges bench. Decide the petition.

- Q.4 Recently the Lok Sabha passed the Aadhar Bill which aims to ensure targeted services to intended beneficiaries by assigning them unique identity numbers. The speaker of the Lok Sabha certified the Aadhaar Bill as Money Bill. It was alleged by the opposition that Government had categorised the Aadhaar Bill as a Money Bill to "circumvent legislative scrutiny by the RS". Senior Congress Leader Mr. Jairam Ramesh while proposing amendments in the Bill in the Rajya Sabha, expressed "anguish" that the bill was brought as a money bill, an act he likened to "knocking a nail in the coffin of the Upper House". Do you think that declaring Aadhaar Bill as a Money Bill violates the provision/s of the Constitution and has grave implications for the future of Rajya Sabha itself? Analyse the scope of judicial review of Speaker decision of certifying Aadhaar Bill as Money Bill. (10)
- Q.5 Discuss in light of Supreme Court judgements, the procedure to remove the judges of the Supreme Court of India. Do you think the present procedure is sufficient enough to remove the judges from the Supreme Court of India? (10)
- Q.6 Explain the following statements: (10)
- All money bills are financial bills but all financial bills are not money bill.
  - Similarity and dissimilarity between the President and Governor regarding their power to assent the bills.
- Q.7 Write short notes on the following: (10)
- 'The status of Election Commissioner is at par with the status of Chief Election Commissioner of India.'
  - Effect of lapse of ordinance.

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