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**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Environmental Law**
Semester-VII (Batch: 2013-18)

End Semester Examination: October-2016

Date: 18th October, 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.

- | | Marks |
|--|-----------------------------------|
| <p>Q.1 An appeal was filed in the Division Bench against the judgment and order of the single Judge of the Gauhati High Court who dismissed the writ petition filed by the appellant and directed them to close the operation of their industry till the receipt of consent from the Pollution Control Board. The appellants were established soft drink manufacturing factory and moved an application for the grant of consent by the Pollution Control Board as required under the Air (Prevention & Control of Pollution) Act, 1981. The Board refused to grant consent, and also directed the appellants to close down their factory. The appellants challenged the legality and validity of the order in the writ petition filed before the Gauhati High Court.</p> <p>In view of the above stated facts, answer the following:</p> <ol style="list-style-type: none"> (a) Whether the Board had authority to refuse consent? (b) Whether the Board could order for closure of the industry? (c) Discuss the functions of State Pollution Control Board with reference to the standard for emission of air pollutants into the atmosphere from industrial plants and automobiles or from any other source whatsoever. (d) Discuss the procedure for the collection of sample of air pollutants mentioned under the Air (Prevention & Control of Pollution) Act, 1981. | <p>(2.5+
2.5+3+
2=10)</p> |
| <p>Q.2 Messrs Vijay Industries Ltd. is a parent company registered under the Companies Act having diversified business activities. Prior to the commencement of the Water (Prevention & Control of Pollution) Act, 1974, it had established an Industrial Unit called Messrs Vijay Distillery at Vijayawada engaged in the business of manufacture and sale of industrial alcohol. During the process of manufacture of such industrial alcohol, the said unit discharged highly noxious and polluted trade effluents into the nearby river and streams and thereby causing continuous pollution. In accordance with the provision of the Act the company was required to submit an application for consent of the Board in the prescribed form along with all particulars but the failed to comply with the same. So the Pollution Control Board lodged a complaint against the company in the court of the Chief Judicial Magistrate, Vijayawada. Unfortunately the complaint was not properly drafted and the name of the company was wrongly described in the complaint. Despite the fact that Board launched prosecution against the Industrial Unit Vijay Distillery and not against Parent company. The other persons who were arrayed as an accused were</p> | <p>(2+3+
3=08)</p> |

the Chairman, Vice Chairman, Managing Director and other members of the Board of Directors of Messrs Vijay Industries Ltd. The Magistrate directed issue of process to the respondents. Aggrieved by the order, some respondents preferred Revision before the High Court. The Hon'ble High Court quashed the proceedings on the ground that complaint suffered from serious legal infirmity and to allow it to continue would amount to an abuse of the process of the Court. Against the order of the High Court, Special Leave Petition was preferred by the Board, to the Supreme Court.

In view of above stated facts, discuss:

- (a) Whether the negligence on the part of the Board officials, while drafting the complaint would invalidate the initiation of prosecution?
- (b) Whether the Chairman, Vice Chairman, Managing Director and other members of the Board of Directors of Messrs Vijay Industries Ltd were liable to be prosecuted under the Act?
- (c) Discuss the penalties for contravention of certain provisions of the Act.

- Q.3 “The marine environment is facing a number of pressures, arising out of the needs of people, and the multiple uses that coastal and marine areas can be put to. These pressures contribute to the depletion of marine resources and degradation of the marine environment. In the absence of good management, these pressures may result in severe stress”. (06)

In view of this discuss the different program area highlighted under Agenda 21 for the sustainable development of the marine environment.

- Q.4 The petition is filed under Articles 226 and 227 of the Constitution in the nature of Public Interest Litigation by a Trust in the name of Environment Support Group. The petitioners have drawn attention of the court to the continuing failure on the part of regulatory authorities against various public agricultural Universities that are involved in criminal bio piracy of local varieties of eggplant. The petitioners have also highlighted that one of the notifications issued in 2009 by Ministry of Environment and Forest has got 18 critically endangered plants among its 190 plants as normally traded communities. The petition challenged the implementation of Section 40 of the Biodiversity Act, 2002 which authorized Central Government to exempt certain biological resources i.e. the Central Government may, in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that the provisions of this Act shall not apply to any items, including biological resources normally traded as commodities. (06)

Environment Support Group had raised the contention that the entire process by which the proprietary product had been developed was in comprehensive violation of the Biological Diversity Act, 2002. They have constituted an outrageous act of bio piracy of India's endemic eggplant varieties. Hence the Environment Support Group initiated Public Interest Litigation before the Karnataka High Court seeking directions to compel the regulatory agencies to move against public agriculture Universities, companies for bio piracy and to strengthen the regulatory processes to prevent any further act of bio piracy. Discuss the admissibility of the petition.

- Q.5 The Basel Convention is viewed by many as sanctioning the practice of exporting hazardous wastes by developed countries—a practice that degrades the environmental and health conditions in developing countries. Should the Basel Convention have enforced an absolute ban on such exports instead of approving the legitimate and regulated transport of hazardous wastes? Discuss the rules to control hazardous waste in India. (05)

Q.6 Write short notes on **any two** of the following:

(2x2.5
=05)

- (a) Environment Impact Assessment
- (b) People's Biodiversity Register
- (c) Nagoya Protocol
- (d) Coastal Zone Management

Q.7 "The rapid decline of India's wild animals and birds, one of the richest and most varied in the world, has been a cause of grave concern. Some wild animals and birds have already become extinct in this country and others are in the danger of being so. Areas which were once teeming with wildlife have become devoid of it and even in Sanctuaries and National Parks the protection afforded to wildlife needs to be improved."

(10)

In view of this critically analyze the issues raised in Gateway Hotels & Gateway Resorts Ltd. v Nagarhole Budakattu Hakku Sthapana Samiti AIR 1997 KAR 288.
