

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

**Course: Principles of Transparency and Accountability - Regulatory Framework  
Semester-II (Batch: 2015-16)**

**LL.M. End Semester Examination: May-2016**

**Date: 18<sup>th</sup> May, 2016**

**Duration: 3 hours**

**Max. Marks: 70**

**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.

**Part-A**

**Marks**

Answer **any four** questions

- Q.1 (a) The Chief Secretary of the Government gave a categorical assurance that total exemption from sales tax would be given for three years to all new industrial units in order to establish themselves firmly. Acting on this assurance the Dungupur Sugar Mills decided to set up a hydrogenation plant by taking a huge loan. Subsequently, the Government changed its policy and announced that sales tax exemption will be given at varying rates over three years. The mill owners contended that they had set up the plant and have taken huge loans only due to the assurance given by the Government. Whether the Government is bound by its promise? Decide. (7.5+7.5 =15)
- (b) What is the relevance of the doctrine of 'Promissory Estoppel' in India? Elucidate with suitable case laws.
- Q.2 (a) "A tortious act committed by the State/its officials in purported exercise of their administrative powers/functions, should be treated at par with a tortious act by a private person/individual." Do you agree with this statement? Do you have any alternative suggestion on this issue? (7.5+7.5 =15)
- (b) Ms. Treesha has requested to furnish a photocopy of her evaluated answer sheet of the departmental exam. The Public Information Officer has refused to furnish the same on the ground that there is no public interest involved in her request. Ms. Tressa prefers an appeal to the Information Commission. Refer the appropriate provisions of the Right to Information Act, 2005 and decide the matter.
- (i) Whether Treesha can get a photocopy of her evaluated answer sheet of the departmental Exam?
- (ii) What shall be the procedure for filing an appeal to the Information Commissioner?
- Q.3 (a) Mr. Ajay Singh, an Inspector working under the Department of Income Tax has filed a Suit against the State of Rajasthan for a declaration that his retirement from service before he reached the age of superannuation was illegal and was violative of various provisions of the Constitution of India. He requested the trial court to direct the department to produce in the court the personal files, confidential reports maintained by the department in respect of himself and some other inspectors who were junior (7.5+7.5 =15)

to him but were retained in the service. The State claimed privilege under section 123 of the Indian Evidence Act, 1872 on the ground that the documents were unpublished official record relating to "affairs of state".

On the basis of these facts answer, whether the privilege claimed by the State can be allowed?

- (b) *"Every activity of the Government has a public element in it and it must, therefore, be informed with reason and guided by public interest. Every government cannot act arbitrarily without reason and if it does, its action would be liable to be invalidated."* Non-arbitrariness, fairness in action and due consideration of legitimate expectation of affected party are essential requisites for a valid state action.

In the light of the above statement, discuss the contractual liability of the State with relevant case laws.

Q.4 (a) Critically evaluate the amendments proposed to the Prevention of Corruption Act, 1988. (7.5+7.5=15)

- (b) What are the shortcomings in the Lokpal and Lokayakta Act, 2013? Do you think that Lokpal is an independent body which is functioning efficiently to bring transparency and accountability in public administration? Comment.

Q.5 (a) The Courts are duty bound to see that an administrative authority does not abuse its power. If there is abuse, courts should make them accountable to the public. To some extent courts have been able to make the authorities accountable to the public, but still courts exercise only a marginal control. This analysis found from various judicial decisions shows that in certain judicial decisions court have determined even personal accountability of an authority. Explain the case laws in which the court determined the public and personal accountability of administration in the exercise of powers. (7.5+7.5=15)

- (b) You are selected by the World Bank to be part of their PAM (Public Accountability Mechanism) Initiative team. The Public Accountability Mechanisms initiative team provides assessments of countries' in-law and in-practice efforts to enhance the transparency of public administration and the accountability of public officials. The overall aim of the PAM initiative is to provide timely information and assistance to the World Bank operational teams working on transparency and accountability issues. This involves the facilitation of project designs that address issues of transparency and accountability. Several transparency and accountability mechanisms are studied: (i) Financial Disclosure (income, assets and interests); (ii) Conflict of Interest Restrictions; (iii) Freedom of Information (openness, access, rights); (iv) Immunity Provisions, etc.

As a part of the team of PAM initiative, you have been directed to identify any recent Indian Bill/Amendment Bill or Legislation, pending or enacted between year 2014 and 2016 and examine it on issues of transparency and accountability.

Prepare and submit your report.

### Part-B (Compulsory)

Q.6 Write short notes on **any two**:

- (a) Central Vigilance Commission  
(c) Central Bureau of Investigation

(b) Commission of Inquiry

(2x5=10)

\*\*\*\*