

**GUJARAT NATIONAL LAW UNIVERSITY
SILVASSA CAMPUS**

Course: Constitution al Bodies
Semester- II (Batch: 2023-24)

End Semester Examination:

Date: 23. 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.
- Each Question Carries 10 Marks
- Attempt any 5 out of 8
- Word Limit- (900-1000 words)

Answer any **five** of the following questions.

- | | Marks |
|--|--------------|
| Q.1 The term “ <i>Consultation</i> ” used in Articles 124, 217, and 222 of the Constitution has to be read as vesting primacy in the judiciary with reference to the decision-making process, pertaining to the selection and appointment of judges to the higher judiciary, and also, with reference to the transfer of Chief Justice and Judges of one High Court to another. Discuss the above statement with relevant case laws. | (10) |
| Q.2 The Governor of State X sends a report to the President recommending the imposition of the President's rule in the state. The report states that there is a complete breakdown of law and order in the state and the administration has completely failed to check growing violence, corruption, and destruction of public property. Although the government is enjoying the confidence of the legislature, the President accepts the report and proclaims an emergency in the state under the Constitution. The state government is dismissed and the assembly is dissolved. The dismissed Chief Minister seeks to challenge the Constitutional validity of the Presidential action.

<i>Advise the Chief Minister.</i> | (10) |
| Q.3 Does the involvement of the Chief Justice of India in the selection panel enhance the credibility of the Election Commission in the eyes of the public? How does the Constitution ensure the independence of the Election Commissioner? Discuss this with the recent case laws and critically analyze the recent changes. | (10) |
| Q.4 Shri Joey Putin was charged under the Prevention of Corruption Act but was elected as the leader of his party after the party gained an absolute majority in the Assembly Election and the Governor of the State appointed him the Chief Minister. | (10) |

Whereas Shri Donal who was convicted in the offence of murder and his appeal is pending in the High Court was appointed as a Cabinet Minister in the State on the advice of the Chief Minister.

The appointment of the Chief Minister and the Cabinet Minister was challenged on the ground that the appointment was against the provision of law and therefore could not function as such. The court was requested to issue a writ of quo warranto. But they contested that they were appointed as per the Constitution .

Can they continue on their respective position. Explain the same with the help of the decided cases?

Q.5 Examine the nature of satisfaction to be exercised by the President in the following instances: (5+5)

- A. President is satisfied to promulgate an ordinance
- B. President is satisfied that there is a failure of Constitutional machinery in the state

Q.6 The Legislative Assembly of State X was constituted in March 2001 and its five year terms were to expire on 19.04.2004. On 19.08.2004 on the advice of the Chief Minister the Governor of the State X dissolved the Legislative Assembly. The last sitting of the dissolved Legislative Assembly was held on 03.04.2004. (10)

Election Commission by its order dated 16.08.2004 acknowledges that Article 174(1) is mandatory and applicable to an Assembly which is dissolved and further that the elections for constituting a new Legislative Assembly must be held within six months of the last session of the dissolved Assembly.

Election Commission was of the view that it was not in a position to conduct an election before 03.10.2002 and it would take a few more months thereafter to hold the election.

This dichotomy of view forced the President to take the advisory opinion of the Supreme Court.

Advise the President .

Q.7 A TV channel conducted a sting operation and telecasted depicting some MPs of both houses accepting money, directly or through middlemen as consideration for raising certain questions in the House. The presiding officers enquire through separate Committees. Finally report of the enquiry found evidence against the MPs incrimination. (10)

The report was laid before the house and a motion was adopted resolving to expel the MPs and a notification was issued in this regard.

Expelled MPs challenged this before the Supreme Court alleging the expulsion was malafide.

Discuss whether the Supreme Court within the Constitution Scheme has the jurisdiction to decide the content, scope of powers, privileges, and immunities of the legislatures and its members.

- Q.8 Mr Jay, a member of the House was appointed as a chairperson of the *NY Film Development Council*. Prevention of the Disqualification Act did not exempt the said office of profit from disqualification under the Constitution . The office carried the remuneration of Rs 1,00,000, staff car with driver, telephones at office and residence, free accommodation and medical treatment facilities to self and family members apart from allowances, etc. His membership was challenged on the grounds that he held the Office of Profit. (10)

President after obtaining the opinion of the Election Commission disqualified him as a Member of the House.

However, Mr. Jay challenged his disqualification order before the Supreme Court stating that the benefits and facilities given by the State Government were not received by him.

Decide the petition.