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R N
29 AUG 2013
NO. 03
RECEIVED

GENERAL STUDIES (TEST CODE : 1143)

Name of Candidate	Manisha M. Anhale		
Medium Eng./Hindi	Eng	Registration Number	17265
Center	ORN	Date	

INDEX TABLE			INSTRUCTIONS
Q. No.	Maximum Marks	Marks Obtained	
1	10		<ol style="list-style-type: none">Do furnish the appropriate details in the answer sheet (viz. Name, Registration Number and Test Code). उत्तर पुस्तिका में सूचनाएं भरना आवश्यक है (नाम, प्रश्न-पत्र कोड, विद्यार्थी क्रमांक आदि)।There are TWENTY questions printed in ENGLISH & HINDI इसमें बीस प्रश्न हैं अंग्रेजी और हिन्दी में छपे हैं।All questions are compulsory. सभी प्रश्न अनिवार्य हैं।The number of marks carried by a question/part is indicated against it. प्रत्येक प्रश्न/भाग के अंक उसके सामने दिए गए हैं।Answers must be written in the medium authorized in the Admission Certificate, which must be stated clearly on the cover of this Question-Cum-Answer (QCA) Booklet in the space provided. No marks will be given for answers written in medium other than the authorized one. प्रश्नों के उत्तर उसी माध्यम में लिखे जाने चाहिए जिसका उल्लेख आपके प्रवेश पत्र में किया गया है और उस माध्यम का स्पष्ट उल्लेख प्रश्न-सह-उत्तर (क्यूसीए) पुस्तिका के मुख्य पृष्ठ पर अंकित निर्दिष्ट स्थान पर किया जाना चाहिए। उल्लिखित माध्यम के अतिरिक्त अन्य किसी माध्यम में लिए गए उत्तर पर कोई अंक नहीं मिलेंगे।Word limit in questions, if specified, should be adhered to. प्रश्नों में शब्द सीमा, जहाँ विनिर्दिष्ट है, का अनुसरण किया जाना चाहिए।Any page or portion of the page left blank in the Question-Cum-Answer Booklet must be clearly struck off. उत्तर पुस्तिका में खाली छोड़ा हुआ पृष्ठ या उसके अंश को स्पष्ट रूप से काटा जाना चाहिए।
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Total Marks Obtained:			
Remarks:			

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EVALUATION INDICATORS

1. Contextual Competence
2. Content Competence
3. Language Competence
4. Introduction Competence
5. Structure - Presentation Competence
6. Conclusion Competence

Overall Macro Comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

5.

6.

All the Best

1. Concerns regarding the wide formulation and indiscreet application of discretionary powers of the Governor need closer attention. Discuss. (150 words) (10)

राज्यपाल की विवेकाधीन शक्तियों के व्यापक निरूपण एवं अविवेकपूर्ण अनुप्रयोग संबंधी चिंताओं के संदर्भ में सावधानीपूर्वक ध्यान केंद्रित करने की आवश्यकता है। चर्चा कीजिए।

Governor, forms that link in centre-state relationships, which bridges, integrates as well as guides federal relations. Though being a ceremonial/constitutional head, he/she is being granted certain powers which are discretionary.

The discretionary powers attached are
(1) Under Art 163(1) and 163(2) - she will have final say if the matters fall in her discretion.

(2) Withholding assent to bill (Art 200) & reserving it for the consideration of the President.

(3) To recommend President's rule as per Art 356 & U/A 365, when he thinks that state cannot function in a manner prescribed by the constitution.

(4) To administer oath to Chief Minister who has majority and to call upon such party who can prove majority in a hung assembly.

But the recent happening as seen in the Karnataka and also in Goa & Mizoram, wherein, the Governor's non-partisan role was called into question.

It is sometimes claimed that Governor is the agent of the centre. But rather one should look at such constitutional position with rather caution, than an agent

Sarkaria Commission - stated the action of the Governor though discretionary, cannot be thus arbitrary, & should act in good faith.

In S.K. Bommai Case, Supreme Court held that Federalism is the basic feature of the Constitution & therefore ~~the~~ control of Union over State executive will thereby go against the basic structure.

Governor takes the oath to defend, preserve, protect the Constitution and therefore she/he should do so in good faith, with utmost trust and within constitutional scheme.

2. Explain the concept of subordinate legislation in India. Also discuss the mechanisms for their scrutiny and control. (150 words) (10)

भारत में अधीनस्थ विधान की अवधारणा की व्याख्या कीजिए। साथ ही, उनकी संवीक्षा और नियंत्रण की क्रियाविधियों की भी चर्चा कीजिए।

The democracy in 21st CE is representative democracy handling complex societies with advanced nature of technologies, economy and polity. Therefore, parliamentarians may not be expert in every field and by making a skeleton form of legislation grant the executive, the power of giving life to such legislation.

Such powers to implement the primary law, may also be made by an authority under State legislature / Parliament.

The need for such law

- (1) Technical nature of governance, needing experts, knowledge & experience
- (2) Parliament being overburdened, may find it difficult to discuss, scrutinize and debate the law in detail.
- (3) The complex societies need prospective and visionary laws. ~~The~~ Subordinate

legislation may do this.

Parliament Scrutiny:

- (1) Through its departmental committees,
- (2) During debates, discussions, question hours & several such motions,
- (3) Each such legislation is to be laid before the Parliament.
- (4) Ministerial responsibilities can be evoked & accountability demanded.
- (5) Committees also exist in both houses to scrutinize subordinate legislation.

(6) Judicial scrutiny

Art 13 grants the explicit power of Judicial Review, under which subordinate legislation is reviewed & held just or unjust.

(7) Civil society

can debate the law, when in public domain

Subordinate legislation are an inevitability in a democracy. Thus the government and the legislature may by acting in coordination bring a sound guiding law on the matter to regulate it more effectively.

3. The crucial position accorded to the Speaker in Indian legislatures, makes it imperative to protect them from undue political pressures. Examine. (150 words) (10)

भारतीय विधान-मंडलों में अध्यक्ष को प्रदान की गई महत्वपूर्ण प्रस्थिति वस्तुतः उन्हें अनुचित राजनीतिक दबावों से सुरक्षित करना अनिवार्य बनाती है। परीक्षण कीजिए।

Speaker, is the presiding officer in the Lok Sabha, acting as the chair for the House, maintaining decorum and discipline. She is the guardian of traditional Parliamentary democracy.

(1) she conducts the business of the House

(2) Adjourns the House

(3) she presides over the joint sitting of the two Houses

(4) she decides whether the Bill is a money Bill or not

(5) Under 52nd Amendment to the Constitution, she gets to decide the defection and is the final authority on the matter.

(6) she is the disciplinarian, taking punitive action for any nuisance & indiscipline.

Thus the above powers of the Speaker makes her a pivotal authority, one which has great constitutional role.

But with some recent incidents, the role of the Speaker has been called into question.

- (1) The controversy of declaring Aadhar Bill as money Bill in 2016.
- (2) Certain state assemblies like Arumachal Pradesh where, defection was considered & members disqualified.

Such incidences bring a pinch of doubt which sows doubts and degrades the trust in such high offices.

- Election Commission has recommended that panel under Schedule X be transferred to the Commission.
- The Speaker to seem and appeal non-partisan. can resign from her party, a precedent followed in UK.

Thus we see that Speakers form the very backbone of the House in democratic Parliamentary form of Government. The office should therefore, be held in high regards.

4. The Departmentally-Related Standing Committees have been referred to as mini-parliaments in India. Highlight their relevance in a democratic polity and discuss, with examples, how they improve the overall effectiveness of the Parliament. (150 words) (10)

विभागों से संबद्ध स्थायी समितियों (विभागीय स्थायी समितियों) को भारत में लघु-संसदों के रूप में संदर्भित किया गया है। लोकतांत्रिक राज्यव्यवस्था में उनकी प्रासंगिकता पर प्रकाश डालिए और उदाहरण सहित चर्चा कीजिए कि वे संसद की समग्र प्रभावकारिता में किस प्रकार वृद्धि करती हैं।

Departmentally-related Standing Committee having permanent nature, were evolved over a period of time, in India, to support, guide, detailly scrutinize, what was becoming a difficult job for Parliamentarians due to overburdening and complexities in governance. ~~There~~ Their number today stands at 24.

Their relevance can be demonstrated as follows

- (1) They are the members who are legitimately elected. Thus greater involvement of MPs & MLAs in the legislative process which may otherwise be lacking.
- (2) Paucity of time & overburdening nature of Parliament makes them a viable option.
- (3) Details of the Bills are scrutinized, offering a more nuanced and better analysed law, which is well resourced and appropriate.

such debates can also reach public platform,
Effectiveness of the Committees

- (1) Their effectiveness is reflected in the a mature and comprehensive nature of the law
- (2) They are immune to haste, populist demand and popal political affiliations making it ~~a~~ genuine scrutiny of law/Bill.
- (3) They can help organise the business of the House, plan in advance. they are also of continuous nature, making full utilization of the members.

Functions like - Grants, Annual Reports of various Commissions, other important Bills like Money Bill, those being referred to providing of Res. etc.

Thus the committees, came to have played a significant role not only in deepening democracy, but also making it effective.

5. Explaining the rationale for setting up of tribunals in the dispensation of justice, enumerate the issues associated with their functioning in India. How can these issues be addressed? (150 words) (10)

न्याय वितरण हेतु अधिकरणों की स्थापना के औचित्य की व्याख्या करते हुए, भारत में उनकी कार्य पद्धति से संबद्ध मुद्दों को सूचीबद्ध कीजिए। इन मुद्दों को कैसे हल किया जा सकता है?

42nd Amendment Act to the Constitution in 1976 gave Constitutional status to tribunals under ART 323A and 323B.

These are the quasi-judicial in nature, resolving, adjudicating disputes for a speedier justice. In a time when

- (1) Courts are overburdened
- (2) Justice being delayed for decades,
- (3) Where the marginalised and those not able to afford justice, were finding it hard to express their rights, found tribunals as blessings, as it offered them a more suitable platform

Rationale

- (1) To reduce the burden on the Courts.
- (2) To serve justice as per the Natural Principle of law and speedily
- (3) To make expertise, experience & knowledge in technical matters be useful in delivering justice

The issues associated

- (*) Casts a shadow on Judicial independence as they do not form part of the judicial system.
- The purpose was speedy justice, but that itself has been the paradox, where cases are lasting longer than 3 years
- Infrastructure of the country where manpower is not enough, as well as physical infrastructure can be costly
- Proliferation of Tribunals is another concern.
- Earlier they transgressed the High Courts ~~then~~, but now Supreme Court ruled that they cannot do so and appeal shall lie to High Courts
- The expertise and Qualifications are not prescribed.
- Too many cases are being approached. Overcrowding of the Tribunals.

However one should note that, they did serve some positive purpose & many of the issues can be systematically, ethically and principally addressed

6. Examine the significance of Gram Sabhas, as mentioned in Article 243A of the Indian constitution, in the development process with special reference to Fifth Schedule areas. (150 words) (10)

पांचवीं अनुसूची के क्षेत्रों के विशेष संदर्भ के साथ विकास की प्रक्रिया में, भारतीय संविधान के अनुच्छेद 243A में वर्णित ग्राम सभाओं के महत्व का परीक्षण कीजिए।

Gram Sabha are the registered persons on the electoral rolls of the village. They form the very rooted subject and can be given as an example of Direct democracy in India.

Art 243A - says that Gram Sabha may, by law, provide such powers and ~~can~~ perform such functions at the village level as the legislature of the state, by law may provide.

Several states have formulated law, which prescribe the specific functions to be performed by them as follows.

- (A) Since they are directly involved in governance of the village a greater scrutiny of the government policies can be carried out by them

- They can do social audit and perform the function of being a watchdog.
eg. MGNREGS etc.

- They can also hold accountable its various functionaries.

mid day meal prog, ICDS, PDS, and various other social schemes can help reach the right person through their vigilance

- Women-related issues, greater representation can be made possible

- Also Gram Sabhas can serve as the source of collective conscience for social reform

Under 5th schedule, Tribal Areas & Councils associated can decide

(i) minor forest produce, minor water bodies, land acquisition issues, preventing alienation of ST, ~~to STs~~ Deforestation, illegal mining, encroachment are few of the issues that the state can handle on behalf of the policymakers.

- They also help in protecting local customs & sustainable culture.

But it is seen that state governments are not willing to give Gram Panchayats much power. Art 40 - guarantees decentralisation. Our democratic government, therefore as a matter of policy should strive to make it more genuine

7. The Rajya Sabha is merely a secondary house rather than a second house in the Indian Parliamentary system. Critically analyze the statement. Also, compare and contrast the position of the Rajya Sabha vis-à-vis the State legislative councils. (150 words) (10)

भारतीय संसदीय प्रणाली में राज्यसभा वस्तुतः दूसरा सदन होने के स्थान पर एक द्वितीयक सदन मात्र है। इस कथन का आलोचनात्मक विश्लेषण कीजिए। साथ ही, राज्य विधान परिषदों के मुकाबले राज्यसभा की स्थिति की तुलना कीजिए और अंतर बताइए।

Rajya Sabha in the Indian Parliamentary system represents the state, thereby the federal fabric of our democracy. It has been a given pivotal role under various Articles as well as schedule.

Playing as a Secondary House

- As an equal in passing Constitutional Amendment Bills, Financial Bills, ordinary Bills, in electing President, removal of Judges etc (BUT)
- It cannot pass a legislation to make law in matter under Art 110. Thus playing a secondary role.
- It serves the purpose a comprehensive and well conceived debate by delaying the passage of legislation.
- In fact parties field their unsecured, losing candidates as members. Relatives and close friends are also brought through such methods.
- In Joint Sitting, Lok Sabha surpasses it because of its sheer strength.

But we know that RS is much more than a secondary House.

- It represents states and thus the federal structure of the country.
- It gives representation to those who are not inclined towards elections but are eminent scholars, experts etc in society.
- It also reduces the populist nature of political parties in Lok Sabha through delaying passage of Bills.
- It can create All India services (Art 312), can authorize the Parliament to create law on state list (Art 249).

With regards to Legislative Council

- RS was permanent nature, while state legislative councils (SLCs) are created by option of state Legist. Assembly.
- RS has greater powers and stands as more or less equal on many spheres with Lok Sabha, especially Constitutional Amendment. SLC all secondary & can merely delay Bills.

In such manner we see that RS is not merely a secondary House, but has a larger, constitutional role to play, in federal structure.

8. A major shift is needed in the institutional framework of the Central Water Commission (CWC) and the Central Ground Water Board (CGWB) to make water management more holistic and multidisciplinary. Discuss in the context of Mihir Shah Committee recommendations. (150 words)

(10)

जल प्रबंधन को अधिक समग्र और बहु-विषयक बनाने के लिए केंद्रीय जल आयोग (CWC) एवं केंद्रीय भूमि जल बोर्ड (CGWB) के संस्थागत ढाँचे में महत्वपूर्ण परिवर्तन की आवश्यकता है। मिहिर शाह समिति की अनुशंसाओं के संदर्भ में चर्चा कीजिए।

Water has come to occupy a centre stage in centre-state as well state-state relationship and has been a matter of policy & survival. Water being a state subject is generally left to governed by state. However inter-state rivers come under centre's seniority.

Two forms of water - surface and groundwater are ~~separately~~ treated separately. Rather due to pollution ^{etc}, they should be treated as one entity.

~~Also~~ Mihir Shah Committee on Inter-state Water Disputes recommended that one "National Water Commission" can be formed.

Such step is necessary to organise water under one administration, for easier governance & management.

The National water commission will carry out the following functions.

- (1) Survey and mapping of various water bodies
- (2) Incentivise state to take measures for irrigation and sustainable practices for water usage.
- (3) Localised and area specific addressal of problems for river rejuvenation

The above functions will integrate the water management in the country by

- making it holistic, multidisciplinary
- More sustainable & progressive.
- setting vision by incorporating states cooperative federalism.
- localised addressal of issue. Thus not following one-size fits all principle.

But one needs to be careful that while making such body, it does not fall prey to bureaucratisation, centralisation, delaying of work, reducing efficiency in work, and inclusive state participation should be encouraged

9. On what grounds can a person be denied the right to contest elections to the Parliament in India? Will a lifetime ban on those convicted of heinous crimes address the problem of criminalization of politics? Discuss in light of recent judgments by the Supreme Court. (150 words) (10)

किसी व्यक्ति को भारत में संसद हेतु चुनाव लड़ने के अधिकार से किन आधारों पर वंचित किया जा सकता है? क्या जघन्य अपराधों के दोषी व्यक्तियों पर 'आजीवन प्रतिबंध' से राजनीति के अपराधीकरण की समस्या हल होगी? सर्वोच्च न्यायालय द्वारा दिए गए हाल के निर्णयों के आलोक में चर्चा कीजिए।

Elections are the life and soul of the representative democracy. Thus criteria for representations should be clearly spelt out & so for disqualification.

Under Art 102 & 191, constitution gives us the grounds on which a person can be disqualified from contesting. ^{undischarged} Unsound mind, insolvency, office of profit, being a non-citizen of India are few of the grounds.

However it also says that Parliament may prescribe such other grounds, by law.

Thus according to the Representations of People Act, 1951, Any person convicted of heinous crimes, such as rape, dacoity, embezzlement and such other crimes under IPC, 1860

crimes like untouchability, Unlawful Activities (Prevention) Act, FERA etc also disqualify a person from contesting.

But Supreme Court in its landmark judgment in Lily Thomas Case declared that a convicted person when appealing in a crime serving more than 2 years of punishment, will not be liable to contest elections. But still we see that criminalisation of politics is a huge menace, threatening democracy, nearly 34% of MPs are convicted with 10% of them for heinous crimes.

Thus in such context life ban of convicts can be a viable and appropriate solution.

- Instill trust of people in politics.
- Display of money power and nexus between crime and politics will be reduced hugely.
- Discourage the criminals from taking politics as career routes.
- Help function democracy with sensitive people who respect Rule of law as they will be equally encouraged to join.

However Politics is an arena, where vested interests plays major role in our society. Any attempt for reform may find constraints. Delay of court cases is another argument that help ~~convict~~ criminals walk with impunity. Hence, precautionary and not punitive reforms are need of the hour.

10. Directive Principles can be considered as even more important than the Fundamental Rights because they provide a positive thrust towards welfare. Examine. (150 words) (10)

निदेशक तत्वों को मूल अधिकारों से भी अधिक महत्वपूर्ण माना जा सकता है क्योंकि निदेशक तत्व कल्याण की दिशा में एक सकारात्मक प्रेरणा प्रदान करते हैं। परीक्षण कीजिए।

In Constitutional framework, Fundamental Rights (which guarantee the basic, natural freedoms to person) and Directive Principles which are fundamental in governance of the country, reflect a complementary vision that our founders shared.

Fundamental rights perform following functions

- They act as limitations on the power of the government. Preventing the arbitrary and abusiveness of it.
- They are natural, fundamental, holistic for the development of the people. They give dignity to living (Art 21, 20) etc.
- They serve the democracy in the most fruitful sense, eg (Art 19)
- They guarantee Right to Religion, minority rights, which gives minority due to protection a foundation for a tolerant, secular country
- Establish Rule of law through constitutionalism
- They also offer equality with positive affirmations and of opportunities.

While DPSPs serve a purpose of

- Guiding the governments in carrying out a vision of welfaristic state. They try to achieve socio-economic development in the sense
- They lay down rules for the marginalised, exploited members of the society and guide how policies are to be framed, if such goal is to be achieved.
- They govern environment, public policy, nutrition, education etc and help form the philosophy of the Constitution

Thus one may conclude that both FRs and DPSPs are two sides of the same coin. In Minerva Mills case (1980) the apex court said that both are complementary and there's no antithesis between them. Absolute primacy of one over the other disturbs the harmony of the Indian Constitution.

11. In light of demands for replacement of the FPTP (First Past the Post) system with other alternatives, compare the merits and enumerate the challenges associated with replacing the current system. (250 words) (15)

FPTP (फर्स्ट पास्ट द पोस्ट) प्रणाली को अन्य विकल्पों से प्रतिस्थापित किए जाने की मांगों के प्रकाश में, वर्तमान प्रणाली के लाभों से तुलना करते हुए इसे प्रतिस्थापित करने से संबंधित चुनौतियों को सूचीबद्ध कीजिए।

When the Constitution was enacted, and Parliamentary democracy adopted, First Past the Post (FPTP) was the natural choice of the constitution-makers for many reasons.

FPTP system is simple where a candidate securing highest vote in the election in comparison to his rivals is elected as the winner. (even if he secures just two votes if the other candidate securing one vote)

It was adopted because

- Familiarity with the system since pre-independence period
- Easy to understand / simplicity for the large illiterate voters then
- Accountability - serves well.

But recently Parliamentary Standing Committee ~~was~~ sought response on such system. Demand for its change was made. The alternate system given were proportional representation and the hybrid system.

Proportional Representⁿ

- Representative of votes cast & seats won.
- Better votes for Political parties
- Representation to all sections - women, plural, SC, STs etc.
- Restricts regional fiefdoms.

Hybrid System

- Mix of the two. Some on FPTP & others on basis of votes secured.
- ~~Other~~ It is a good balance b/w the two, combining positive features
- Several countries have adopted. eg Japan & S Korea.

FPTP also criticised because of the above

- reasons, as it is failing to give wide representation to different elements in society, non-stability of governments
- Though winner with absolute majority, vote share is quite poor.
- Caste association, criminalization & fiefdoms are also encouraged

Challenges

- It is difficult to adopt a complex system after such simple one. voters and (may) not ready
- Lack of political will.
- Difficulty of by-polls.
- Logistics of financial resources.
- May leads to proliferation of party ~~etc.~~

• It may as well reduce the significance of votes.

• It is important to assess the feasibility of adopting such system. We know that FPTP has served good purpose, but with changing time and demand, reforms are necessary, even in the electoral system. With proper debate & discussions, one may adopt a suitable approach.

12. Despite long-term recognition of the problem of pendency of cases in the courts, limited progress has been made in reducing their number. What are the possible reasons for such a scenario? Suggest a framework of measures that can be taken to address this issue. (250 words) (15)

न्यायालयों में मुकदमों के लंबित रहने की समस्या की बहुत समय से पहचान होने के बाद भी इनकी संख्या को कम करने की दिशा में सीमित प्रगति ही हो पाई है। ऐसे परिदृश्य के लिए संभावित कारण क्या हैं? इस समस्या को हल करने के लिए विभिन्न उपायों की एक रूपरेखा का सुझाव दीजिए।

Judicial system is the 3rd wheel of democracy, without which enforcement of a sense of belonging may be reduced to subtles. Also we know that Indian Judiciary, for a very long time now is suffering from the problem of pendency of cases.

with 4.5 million in High courts, 22 million in district courts and more than 60k in the Supreme court, the enormity of it is breathtaking, with each cases taking almost decades.

Reasons

- Low Judge to Population Ratio
- Vacancy of Judges
- Vacations of the courts
- Police force not adequately trained as investigators
- Lacking infrastructure.
- PIL

are few of the many reasons for pendency

To address such a menace, the possible measures taken ~~up (by judiciary)~~ till now

- Tribunals setting up and giving it constitution status
- Special courts for various cases like family, special crimes etc.
- Encourage ADR mechanisms, Nyayaalay Court, etc. through legitimate & legal means. Lok Adalats; Legislative Services Authorities Act (1987) Arbitration & Conciliation Act etc

But the measures seem to be inadequate. Thus it is an imperative to come with innovative solutions to address the menace.

- Reform of the rigid law structure i.e. of archaic laws like IPC, Indian Evidence Act, CrPC. Mahimath Committee suggested recommendations can be implemented.
- It is important not only raise Judge to people ratios but have qualitative judges, improving the legal education, law staff is imperative

- Though ADR is encourage, it is not enough. and law colleges can play pivotal role in spreading awareness on legal education, legal aids they need to have genuineness as well as compulsion of serving rural areas in college curriculum.
- Managing data, technology can be of immense help
- At the same time - It is the ethicality in profession, dedication and the determination to reform system will make reforms more suitable
- Separation of Police functions, adequate training.
- Constant Review mechanism etc.

Thus, one may see that reforms are very much possible, but one needs the will to take it forward

Policy like Nyay Mitra, Tele-law, etc are a welcome initiatives. However much needs to be done 'as justice delayed is justice denied'

13. Despite the phrase 'due process of law' not being mentioned in the Constitution, the Supreme Court, over the years, has adopted the doctrines of 'procedural due process' and 'substantive due process' into Indian constitutional law. Comment. (250 words) (15)

संविधान में 'विधि की सम्यक् प्रक्रिया' पद का उल्लेख नहीं होने के बावजूद, सर्वोच्च न्यायालय ने विगत वर्षों में भारतीय संवैधानिक कानून में 'प्रक्रियात्मक सम्यक् प्रक्रिया' और 'सारवान सम्यक् प्रक्रिया' का सिद्धांत अपनाया है। टिप्पणी कीजिए।

Indian Constitution guarantees fundamental rights and freedoms to its individuals. These rights are the hallmark of modern democracy. One such among them is Art 21 - Right to life is considered significant, since it guarantees the very life one strives for. The text says

'No person shall be deprived of his life or liberty except according to the procedure established by law.'

Here the text procedure established by law has limited connotation, wherein the executive though held sovereign, legislature may take the right if right procedure followed no matter what the intention of ~~constit~~ law makers.

While in USA, the judiciary follows the 'Due process of law' which says that not just procedure, but even the intention of the makers should be just, reasonable.

The Supreme Court in Maneka Gandhi vs Union of India, though held that Art 14, 19, 21 cannot act in isolation & three are equally important. They are integrative and complementary and are needed by the individual to live a dignified life. Thus making not only procedure but also intention and motive behind the law a subject matter of the constitutionality. Bringing due process to India.

The Court in A.K Gopalan case had given a narrow interpretation called overruling this. The Court said that the test of reasonability is important to determine the validity of law depriving a person of his/her liberty. Such law cannot be valid if affecting natural justice

substantiveness of law - which was given as the main facets, tells us that, it is such law which restricts

the arbitrator an authoritative
tendencies of the government in question
keeping a real check on the State.

Thus, we have come to see that
judiciary, over a period of time, has
successfully, liberally interpreted the
Constitution to serve the real intention
of the law makers and delivering
justice more inclusively.

New issues like Right to Privacy, right
to educational, speedy trial, dignity of
living, environmental rights. Also the
recent decriminalisation of begging
are few of such instances of due
process of law.

14. Can we say that cooperative federalism in India has strengthened in the post-liberalisation era? Give reasons in support of your answer. (250 words) (15)

क्या हम कह सकते हैं कि भारत में उत्तर-उदारीकरण युग में सहकारी संघवाद सुदृढ़ हुआ है? अपने उत्तर के समर्थन में कारण प्रस्तुत कीजिए।

Cooperative federalism in Indian state rests on the principle of respecting autonomy of states but at the same time promoting coordination, cooperation and integration of states amongst each other. It is through such practices can one realise the dream of welfare state.

The Post 1991 reforms, which marked watershed in the Indian economy, was significant for 3 reasons like political & structural changes too. As pre-liberalisation, role of centre in regulating various political ~~org~~ arenas, strong central governments & later emergence of regional parties. The idea could not take a solidified ground.

Following are few of the reasons one could assert in discussing strengthening of cooperative federalism in India.

- The significant feature of 1990s was coalition government at the centre.

thus ending the Congress domination. Another feature of coalition being regional parties, which asserted regional demands of interest quite vocally.

- 1990s also witnessed passing of 73rd & 74th constitutional Amendment Act, devolving greater power on local governments, decentralisation was thus put on track
- The judgments in 2nd & 3rd cases delivered by apex court gave rise to an era of strong independent judiciary, which also witnessed judgments like Indira Sawhney case. Reservation played important role in state politics. Judicial activism was thus witnessed in S.R. Bommai case - where federalism was declared as basic feature of the constitution
- The emergence of advanced technology through market reforms facilitated faster communication making states and citizens voice more active for debate. Media was supportive of local newspapers emerged strongly
- Politically motivated, populist policies were

debate'd, thus Centre's accountability enhanced, if Presidential Rule proclaimed in states.

The present government has taken several step to augment cooperative federalism.

- Resolving centre-state river disputes, for speedy resolution a law is being passed
- With abolition of Planning Commission, & coming into frame of NITI Aayog, who promotes cooperative & competitive federalism
- GST has been recently implemented, But the role of states in decision making is not diminished. But given constitutional status through GST Council
- 14th FC recommendations where greater levolution of taxes (upto 42%)

Although efforts are great, & cooperation a necessity, one should not forget that we are at crossroads with technology, with faster changes, plurality, integration of global community. We need state-state & centre-state cooperation.

15. Faulty regulatory policies can have a severe adverse effect on the efficient interplay of market forces and end up harming public interest. Examine in the context of systemic issues pertaining to regulatory environment in India. (250 words) (15)

दोषपूर्ण नियामकीय नीतियों का बाजार बलों की कुशल अंतःक्रिया पर गंभीर प्रतिकूल प्रभाव पड़ सकता है और सार्वजनिक हित की क्षति हो सकती है। भारत में नियामकीय वातावरण से संबंधित प्रणालीगत मुद्दों के संदर्भ में परीक्षण कीजिए।

Post-1991 market reforms, the role of state has changed from being directive to being indicative. In such circumstances minimum government & maximum governance is the present mantra in market regulation.

But open economy does not mean free play, which might adversely affect disadvantaged classes and marginalise them further. Thus the welfarist state should come out with sensible policies to achieve a balance.

The faulty regulatory policies

- Cumbersome procedure and red tapism are huge impediments to progress
- The attitude of the regulatory body still seems to be resembling license Raj system & police Raj

- Over-crowding of the regulatory body not only creates confusion, but also leads to inefficiencies in regulation.
- Over-regulation harming the fundamental objective of creation of such policies.
- Lack of transparency & accountability in policies results in corruption, making it institutional affair.
- The policies like exist & policy, cumbersome adjudication procedure, government's retrospective taxation laws which are highly inconsistent, the way in which FDI is restricted, controlled pricing of essential commodities, rigid labour laws, all few of the instances where government needs greater reforms.
- Rationalisation of corporate tax & phasing out exemptions etc is need of the hour.
- The above policies, one needs to understand that eventually harms the larger public.

By reducing competition, lower quality of products, inflation, widening gap between haves & have not, trust deficit in the society etc.

several scams that hit the country 2000s, all a part in matter from satyam to 2G, ~~fasttrack~~ etc.

Thus it is important that state achieves a balance b/w regulating the market forces and societal interest.

16. Mention the constitutional provisions to safeguard and ensure the independent and impartial functioning of the UPSC. Further, assess the limitations of UPSC in effectively performing its role as the 'watchdog of merit system' in India as envisioned by the Constitution. (250 words)

(15)

UPSC की स्वतंत्र और निष्पक्ष कार्य पद्धति को सुरक्षित रखने और सुनिश्चित करने हेतु संवैधानिक प्रावधानों का उल्लेख कीजिए। साथ ही, संविधान द्वारा प्रकल्पित 'योग्यता प्रणाली के संरक्षक' के रूप में अपनी भूमिका को प्रभावी रूप से निष्पादित करने में UPSC की सीमाओं का आकलन कीजिए।

Union Public Service Commission, the central recruiting agency for various positions/offices in government, is given constitutional status, marks its importance in the eyes of the constitutional makers.

The various provisions under Chapter XIV of the Constitution, in making it an independent & impartial functioning body to serve ~~the~~ its role of watchdog of meritocracy in India, are as follows

- Security of tenure: The members of the chairpersons of the UPSC cannot be removed on the whims & fancies of the government, but by President only through a selected committee

- Charged expenditure - salaries, pensions allowances etc are charged on the Consolidated fund of India & not subject to vote
- Service conditions - fixed by President & can't be varied to their disadvantage
- Restriction on further appointments.
i.e. after retirement, cannot hold further government employment - either Centre or state.
- The Report is placed before the Parliament through President. Though it is recommendatory carries a huge weightage & cannot be rejected by the government
- Various recommendations on disciplinary matters, etc.

LIMITATIONS

- Its role is limited to recruitment only, and is not responsible for service, allocation, training etc. Also cannot take disciplinary action
- Its recommendations are advisory & therefore not binding on the government

- The matters regarding reservation are not under its purview.
- CVC another vigilance body has largely affected the role of UPSC

Though one should remember that UPSC being a constitutional body has greater force of legi authority.

The above provisions & limitations showcase that UPSC has been performing its role quite diligently, thus its position should not be compromised or seen to be compromised in any manner.

- It recommends
- Appointment of members
- later entry provisions
- primary over CVC

should be effectively given due weightage. It is the foremost state institution that watches merit system of the country & play pivotal role in bureaucratic selection

17. Identify the key issues relating to electoral funding in India. How far can the idea of State Funding of Elections address these issues? (250 words)

(15)

भारत में चुनावी वित्तपोषण से संबंधित प्रमुख मुद्दों की पहचान कीजिए। राज्य द्वारा चुनावों के वित्तपोषण का विचार किस हद तक इन मुद्दों को हल कर सकता है ?

Electoral Funding in India has always been a matter of debate, ~~so~~ considering the role it has come to play in making election funding opaque.

Elections need money to carry out various political activities. Following are the key issues grappling it

- The nexus between corporates and politicians where one come to favour other with regards to funding
- Use of Black money in election process is ample
- Cash donations are made anonymously ~~with~~ without accounting for the source of funding
- Criminalisation of politics is the direct result of huge necessity of electoral funds
- Marginalised groups are devoid of participation, independent candidates too suffer at the cost of big parties

- ~~Use~~ Unaccounted foreign funds, lack of transparency are other few issues
- In such matter election commission has come to play a marginalised role, due to paucity of power over electoral funding

Thus emerges the whole debate of state funding of election, to tackle the malpractices, eliminate black money & regulate flow of funds in rather systematic matter

But will Address the Issue

- state funding might put a limit on the amount of money spent on elections
- It will value new entrants, independent large & small parties equally, encouraging better political participation
- eliminate the role of black money, criminalized practices.
- Reduce the role of corporates and also prevent bureaucratic corruption

but it has pitfalls too

Issues

- State funding might favour big parties
- It will be a burden on the exchequer
- Regulation may be an issue, and limiting it to few, may give rise to discrimination under Art 14.
- Encourage the proxy candidates, along with non-serious ones.

Thus the pros and cons are equally reinstating. It should be analysed objectively, considering that state funding is not a panacea for all the ills that grip elections.

Various bodies like 2nd ARC, Election Commission, Indrajit Gupta Committee have recommended, thus a debate can be initiated.

18. The Constitution of India mentions the Doctrine of Separation of Powers only in passing, yet it holds a unique status in the structural framework of the Indian polity. Discuss. (250 words) (15)

भारतीय संविधान शक्तियों के पृथक्करण के सिद्धांत का केवल संक्षिप्त उल्लेख करता है, फिर भी यह भारतीय राज्यव्यवस्था के संरचनात्मक ढाँचे में एक अद्वितीय स्थान रखता है। चर्चा कीजिए।

Art 50 of the Constitution under the Directive Principles of the State Policy state Judiciary should be separated from the Executive

The Doctrine of Separation of Powers, given by the French philosopher, Rousseau, states a strict compartmentalisation of government organs, so that none of them come to occupy power singlehandedly. However, in modern polity such water tight separation is neither possible nor desirable. But to make democracy function effectively, the body that is guardian of the Constitution, having sole interpreting authority, needs to be safeguarded under all odds.

The independence of Judiciary is thus not only is seen under DPSP, but is reflected through other provisions

too

- ~~At~~ various provisions of the Constitution grant security of tenure, strict procedure for removal, requiring 2/3 majority of the ~~members~~ Parliament.
- The conduct of Judges cannot be discussed in Parliament, except on removal of Judges
- However in Parliamentary system like ours that we have adopted
- ~~Executives~~ Executives are derived from the legislature
- Prime Minister is the leader of the House
- President who is an integral part of the Parliament, is vested with the executive authority
- Judicial Review concepts keeps a check on legislature
- Removal of Judges is by the Parliament
- President can grant Mercy in a death penalty (etc)

The above provisions of the Constitution represent that we have adopted the Separation Theory, with check and balances

and thus in partial.

The recent judgments of the Supreme Court confirmed the principle of separation quite strongly, i.e. the National Judicial Appointment Commission Bill, 2014 was struck down as unconstitutional, wherein the right for such declaration itself came from the Keshwananda Bhalati case which gave us the legendary Basic Structure Doctrine. Such adoption of the doctrine, which is suited for Indian needs. Somewhere diluted & somewhere reinforced strongly through its subtle provisions tells us the peculiarity in Indian polity.

19. Highlight the extent of President's powers under Article 352. Comment on the judicial scrutiny of proclamation and the exercise of executive powers under National Emergency. How is this power different from the one bestowed under Article 356? (250 words) (15)

अनुच्छेद 352 के अंतर्गत राष्ट्रपति की शक्तियों की सीमा पर प्रकाश डालिए। राष्ट्रीय आपात की उद्घोषणा की न्यायिक समीक्षा तथा आपातकाल के दौरान कार्यकारी शक्तियों के प्रयोग पर टिप्पणी कीजिए। यह शक्ति अनुच्छेद 356 के अंतर्गत प्रदत्त शक्ति से किस प्रकार भिन्न है?

Art 352 of the Constitutional deals with the Proclamation of Emergency in India under 3 heads, viz ^{was} External ~~that~~ Aggression or armed rebellion.

- The Power of the President is restricted to the above 3 grounds only.
 - In declaring such state emergency, she/he needs the written recommendation of the cabinet.
 - Such Proclamation; if ~~approved~~ ^{declared}, needs to be admitted in Parliament by special majority in Lok Sabha, approved to by Rajya Sabha. If Lok Sabha not in session six months time given or when the Lok Sabha reassembles, provided ~~to~~ fill then passed by Rajya Sabha.
 - The Art 20, 21 are not ~~to~~ curtailed.
- Thus the extent of power of President or executive is not arbitrary and has been given objective criteria, leaving no ambiguity.

or authoritativeness.

Judicial scrutiny

- Judiciary can question the grounds for the Proclamation of Emergency held under MINERVA MILLS case 1980, on the basis of malafide intention. But it cannot go into correctness of the facts and circumstances on which the satisfaction of the government is based.

Executive Powers - Exercise

- Executive can proclaim emergency only on above 3 grounds
- It gets the directive power over centre-State relations, & can direct states & in legislative & executive power, on any matter
- Thus the federal structure becomes Unitary.

Differences between the the two Articles - 356 & 352 are as follows

- (1) Effect on centre-state relations
- (2) Effect on legislative & executive se/h
- (3) Law making
- (5) Fundamental Rights

20. Fiscal transfers from the Centre to States are critical in India. In this context, explain the rationale of both general and specific purpose fiscal transfers. Also highlight the problems witnessed in the design and implementation of specific purpose transfers. (250 words) (15)

भारत में केंद्र से राज्यों को राजकोषीय अंतरण अत्यंत महत्वपूर्ण हैं। इस संदर्भ में, सामान्य और विशिष्ट प्रयोजन वाले राजकोषीय अंतरणों के औचित्य की व्याख्या कीजिए। साथ ही, विशिष्ट प्रयोजन वाले अंतरणों की अभिकल्पना और कार्यान्वयन में आने वाली समस्याओं प्रकाश डालिए।

