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GENERAL STUDIES (Test Code : 436), 7 September

Name of Candidate **ARVIND SINGH**

Registration No. **2856**

Schedule **1:30 : 4:30**

Module **C**

Place **DRD**

Time

Date

14-09-2014

Classroom

Distance Learning

Classroom & Distance Learning

INDEX TABLE

Q. No.	Maximum Marks	Marks Obtained
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23	10	
24	10	
25	10	

Total Marks Obtained

Remarks:

Signature of Examiner

INSTRUCTIONS

- Do furnish the appropriate details in the answer sheet (viz. Name, ID Number and Test Code).
उत्तर-पुस्तिका में सूचनाएं भरना आवश्यक है (नाम, प्रश्न-पत्र कोड, विद्यार्थी क्रमांक नम्बर आदि।)
- There are TWENTY-FIVE questions printed both in HINDI and in ENGLISH.
इसमें पच्चीस प्रश्न हैं तथा हिन्दी और अंग्रेजी दोनों 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 (क्यू.सी.ए.) पुस्तिका के मुख-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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GENERAL STUDIES (Test Code : 436)

Overall Macro comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

5.

All The Best

All questions are compulsory and carry equal marks. Answer the questions in NOT MORE than 200 words each. Content of the answer is more important than its length.

1. What institutional changes would be required if the Finance Commission were to undertake Planning Commission's functions and the latter discontinued? Do you think such a move would be correct? 10

यदि वित्त आयोग योजना आयोग के कार्यों को करना प्रारंभ कर दे और बाद में योजना आयोग को समाप्त कर दिया जाय तो कौन से संस्थागत परिवर्तनों की आवश्यकता होगी ? क्या आपको लगता है कि इस प्रकार का कदम सही होगा?

Art 280 establishes the Finance Commission. (FC) Among several elements in its Terms of Reference, the most important is the division of tax revenue between Centre and states and among the states itself.

However, due to centralized nature of planning in India an extra constitutional and extra statutory body ~~has eclipsed~~ (FC) viz Planning Commission has eclipsed the role of Finance Commission.

The present Central Government has clearly stated its thinking of revamping the Planning Commission.

Institutional changes required to subsume the functions of Planning Commission into Finance Commission:

- (a) Since FC is a permanent body, thus the FC should also become a permanent

body;

(h) A permanent secretariat for FC should be established.

(c) FC has members mostly from domain of Economics, Finance and Accounts. This must be expanded to give representation from areas like Sociology, public policy etc.

(d) Unnecessary division of expenditure into Plan and Non-Plan expenditure may be removed.

(e) FC will have to do coordinating role

(f) FC will have to oversee the monitoring and Performance Analysis of the plan-programs, as presently done by PC

Merit of this Move:

- There is no doubt that after liberalization, the role of PC need to be revised.
- But dismantling the PC fully may not be the right way.

way forward

- As suggested by eminent scholars, make PC as a Think Tank.
- Equip it with latest tools and skills so that it may continue to Monitor Program Implementation.
- Restructure it, by giving representation from states also, so that it may develop a Long Term Blue Print for policy input for the govt.
- Act as Knowledge Repository of Best Practices.

2. 'Provision of negative voting would be in the interests of promoting democracy' (Supreme Court of India). In this context, discuss how 'None of the Above' option can be helpful in improving the electoral process in India.

10

नकारात्मक मतदान का उपबंध लोकतान्त्रिक हितों को बढ़ाने में सहायक होगा (भारत का उच्चतम न्यायालय)। इस सन्दर्भ में उपरोक्त में से कोई नहीं (NOTA) विकल्प किस प्रकार से भारत में चुनावी प्रक्रिया में सुधार लाने में सहायक हो सकता है। चर्चा कीजिये।

The root cause of many ills that continue to plague India lies in the malpractices of our electoral politics.

SC in this regard has given a landmark judgement. It has declared that Section 49-D in the R.P. Act 1951 is unconstitutional and violates Art 19(1)(a).

It means that Right to secrecy was violated, when a voter decides to not cast his votes in favour of any of the

candidates.

Thus the SC has allowed the None-of-the-Above (NOTA) option to such voters. It has upheld its constitutionality under Art 21.

Arguments in favour of NOTA:

- It will increase the voter turnout
- It will prevent impersonation
- It will act as a Moral force upon the parties. In future, they may be forced, due to the will of the people to ~~not~~ give ticket to candidates with clean image.
- It will strengthen democratic roots in India.

Some shortcomings in NOTA:

- Unlike in Bangladesh, where the equivalent of NOTA means the right to Reject, in India, it will technically have NO effect on the outcome of the election. It is NOT Right to Reject.

- Most of the electoral reforms are outcome of Judicial pronouncements. Unless the political parties itself do not come forward in true spirit, the objective of NOTA may not be fully realized.
- Recent Lok Sabha and Assembly elections have shown insignificant NOTA voting.
- It may destabilize the polity with need for renewed elections.
- Way Forward:
 - Need to generate public awareness about NOTA
 - In future NOTA may be converted into Right to Reject.
 - Need for comprehensive Electoral Reform and not piecemeal approach.

3. (a) Is there a need for giving states a greater say while finalizing the terms of reference of the Finance Commission? 5

वित्त आयोग को किन विषयों पर सिफारिश देना चाहिए, इसको अंतिम रूप देते समय क्या राज्यों को अधिक शक्ति देने की आवश्यकता है?

The Indian Federalism is unimove. It has bias in favour of center. It is based on three pillars:

- Legislation
- Executive
- Financial relations

between center and state.

In this regard, under Art 280, a Finance Commission is established every five years. However, ~~the~~ the states have absolutely no role in

- its appointment
- ~~the~~ in its membership, OR
- in finalizing its Terms of Reference.

But over the years, due to welfare concept, the role of states in development activities has significantly increased.

- There is an increasing resource mismatch
- States have limited power of taxation.
- States have limited power to ~~the~~ borrow

money.

Thus Punchhi Commission also recommends that states must have greater say in finalizing the Terms of Reference of the FC.

The other salutary benefit will be that it will provide yet another platform of coordination over contentious issues of finance like GST, DTC.

Thus this is in tune with the demands of Cooperative Federalism.

(b) Discuss the effectiveness of the safeguards provided in the Constitution in curbing the misuse of Ordinance making power by the Executive. 5

कार्यकारिणी द्वारा अध्यादेश बनाने की शक्ति के दुरुपयोग को रोकने हेतु संविधान द्वारा प्रदत्त सुरक्षा उपायों की प्रभावशीलता पर चर्चा कीजिए।

The principle of 'separation of power' demands that it is an exceptional power given to the Executive to promulgate an ordinance:

Few safeguards are:

- (i) President must be satisfied that there exists a need for an ordinance.
- (ii) can be promulgated during the recess of the parliament/assembly
- (iii) must be ratified within 6 weeks of re-assembly of parliament/assembly

Its effectiveness

- In the era of coalition politics, the political expediency has compromised with the spirit of this special power.
- In 1990s, in Bihar, a particular ordinance was re-promulgated several times.

Thus the safeguards have been compromised several times.

- In this regard Supreme Court has said that power of Ordinance promulgation is not a substitute for regular legislative power.

Way forward:

- Judicial Review into the propriety of ordinance making.
- Ultimately only an informed and empowered citizenry can keep a check on political expediency.

4. If the political class intends to uphold the position of Governor, as was envisaged by the Constitution, then significant reforms will have to be introduced with respect to the appointment and removal of this important constitutional dignitary. Comment.

10

यदि राजनीतिक वर्ग राज्यपाल की स्थिति को उसी रूप में बनाये रखने का इरादा रखता है जैसा कि संविधान में परिकल्पित/उल्लिखित था, तो इस महत्वपूर्ण संविधानिक पदाधिकारी की नियुक्ति और पदच्युति के संदर्भ में अर्थपूर्ण सुधार प्रस्तुत करने पड़ेंगे। टिप्पणी कीजिये।

• Supreme Court has held that the ~~the~~ office of Governor is not an office under the Union of India.

• A Governor acts as a lynchpin between the state and the centre. The relationship between the centre and the state has a strong bearing on the role of the Governor.

• In this regard Sarkaria Commission had given its recommendation. Some important elements are:

- A Governor should not be from the same state
- He should not have taken active participation in politics in recent past and particularly not of the state concerned.
- He should be a person from any eminent field of life.

- Punchhi Commission has also recommended on this issue:
 - (i) A fixed tenure of 5 years
 - (ii) A Governor may be removed in exceptional situation. But he must be given a notice and right to defend himself.
 - (iii) the 'doctrine of pleasure' must be substituted with a defined procedure in constitution.
- Supreme Court in its verdict in 2010 has held that
 - objective and sufficient fact must exist for the removal of the governor
 - Although President need not disclose it, but such evidence/report must exist.
- Also in the context of increasing complexity in the relation of centre-state
 - it is important that the Chief Ministers of the corner state must be consulted in the case of appointment of governor.

Thus a comprehensive and systemic reforms are needed to restore the dignity and impartiality of this very important constitutional post.

This will also restore faith of the states in the Union, contain the misuse of Art 356, Art 365 etc, restrict politicization of ~~governments~~ governance.

5. Elaborate on the issue regarding the procedure to recognize the Leader of Opposition in Lok Sabha. Also discuss the criticality of this post for the functioning of the Parliament.

10

लोकसभा में विपक्ष के नेता के पहचान की नियुक्ति की प्रक्रिया के मुद्दे को विस्तार से बताइए। संसद के कामकाज के संदर्भ में इस पद की भूमिका पर आलोचनात्मक चर्चा कीजिये।

In the recently formed new Lok Sabha, the debate of having minimum 10% seats (55 seats in Lok Sabha) for recognition as leader of opposition (LoP) in LS has come to light.

Congress with only 44 seats have been denied this post. The reasons given are

- there is no past precedent
- the LoP involves expenditure from public money, since he/she is

given the rank and facilities of a cabinet minister.

A British Convention vs Indian Procedure:

- In India the LoP post is inspired by the LoP in British Parliament.
- However, in British Parliament due to the concept of shadow cabinet, there is no controversy in giving the ~~the~~ formal status to LoP.
- In India, the first LoP salha speaker Mavalankar has started this convention of minimum 10% strength requirement for a political party to get the status of LoP for its leader.

Criticality of the post of LoP:

- Since Accountability has become a buzzword, so in many ~~top~~ key appointments, the LoP in CS is a member of the committee
Eg. for appointment to the CVC

members of NHRC, director of CBI,
members of Lothal

- In Democracy, the role of opposition is 'constructive criticism' of the government. So its view point will only act as a safeguard on the tyranny of the government.
- It helps in a more broad based and widely accepted decision on the appointments.

Thus both the Council of Ministers and the leader of opposition in both the Houses are the two sides of the same coin.

An All-Party Meeting ~~must~~ ^{may} be convened to iron out the contentious issues. A formal procedure may then be created so that the voice of opposition is not lost.

6. Equality of seats among States in the Rajya Sabha is a principle, which found a great deal of acceptance in the Constituent Assembly. However, it could not be adopted because of the circumstances prevailing at that time. Is there a need to look afresh at this? 10

राज्य सभा में राज्यों के मध्य सीटों की समानता एक सिद्धांत है जिसे संविधान सभा ने बहुत महत्ता के साथ स्वीकार किया था। हालांकि तत्कालीन परिस्थितियों में इसको अपनाया नहीं जा सका है। क्या इस पर पुनर्विचार की आवश्यकता है?

The composition of Lok Sabha is based on the criteria of the population and size of a state.

For Lok Sabha which represents the will of the people, this criteria is well accepted.

However, in the Indian Federal scheme, with a heavy tilt towards the Centre, Rajya Sabha was created to protect the interest of the States. Therefore, the same criteria used for its composition as in LS becomes a cause of concern.

Arguments in support of Equality of seats in RS:

— In USA, the senate has equality of seats among its states. Each state has 2 seats.

- The party politics in India would mean that a party having majority in the LS, will also get majority in the RS.
- RS would be turned into merely a 'secondary' chamber. The constitution envisaged it as co-equal with LS (except in certain matters like Money Bill)
- Pondit commission has strongly recommended for it.
- In the present scheme, few larger states may always dominate over the work of the smaller states (like states of NE) in matters like Art 249. Thus majoritarianism will prevail.

Thus there is a strong need to look at this issue. Time has come to give equality of seats in the RS to the states.

7. When the emphasis is on social justice, there is no escape from realignment of resources in favour of States, because services and programmes, which are at the core of a more equitable social order come within the purview of States under the Constitution. Discuss. 10

जब सामाजिक न्याय पर जोर हो तो राज्यों के पक्ष में संसाधनों के पुनर्निर्धारण से बचा नहीं जा सकता है, क्योंकि सेवाएं एवं कार्यक्रम जो कि एक प्रमुख न्यायसंगत सामाजिक व्यवस्था के मूल में हैं, संविधान के अनुसार राज्य के अंतर्गत आते हैं। चर्चा कीजिये।

The Indian Federalism has three dimensions:

- Legislative
- Executive
- Financial

Since it is also called as a Federalism with a strong central bias, so states often complain about the misdeeds of the resources.

Need for Devolving more Resources to the states:

- After 73rd & 74th Constitutional Amendment Act, the states themselves are constitutionally required to devolve or share their tax revenue with the Local self Govt.
- Since India is a welfare state with huge socio-economic backwardness hence states have huge responsibilities of development.
- Centre will making several legislations, whose ultimate execution rests with the state government, do not adequately compensate state governments.
~~eg many centrally~~
eg. MGNREGA, NHRM etc.
- Many Centrally sponsored schemes require matching Grants from the state. This puts strain on the resources of the state.

Way Forward :

- The states need to be provided with adequate funds and expertise.
- The 'principle of subsidiarity' must

be followed along with matching resources.

- NM Finance Commission has recommended that states must be involved in
 - formulation of Terms of Reference of the Finance Commission
 - States must have representation in the membership of the FC
- States must be given more untied funds.
- states must be adequately compensated for revenue loss if GST and DTE are implemented.

8. Article 145(3) of the Indian Constitution says that any "substantial question of law" relating to the interpretation of the Constitution must be heard by benches of at least five judges. But some of the most important constitutional cases, like Salwa Judum and Naz foundation, were decided by smaller benches. Why is there a need for larger benches? What are the possible reasons for smaller benches hearing such important cases? 10

भारतीय संविधान के अनुच्छेद 145(3) के अनुसार संविधान की व्याख्या से सम्बंधित "कानून के महत्वपूर्ण प्रश्न" पर विचार न्यूनतम पांच न्यायाधीशों की पीठ करेगी, परन्तु कुछ महत्वपूर्ण संवैधानिकवादों जैसे- सलवा जुद्धम और नाज़ फाउंडेशन पर निर्णय छोटी पीठों ने दिया है। बड़ी पीठों की आवश्यकता क्यों है? इस तरह के महत्वपूर्ण मामलों की सुनवाई छोटी पीठों द्वारा करने के क्या संभावित कारण हैं?

Original Expectation of the Constituent Assembly:

- Originally it was expected that Supreme Court will mostly hear cases which will involve the interpretation of the constitution.
- For this a constitutional provision exists, the minimum number of judges required to hear a case involving interpretation of constitution is 5.

Present scenario:

However, over the years Supreme Court has become a 'regular court' of appeal. Today the number of Special Leave Petition cases far exceeds

cases of constitutional interpretation

Possible Reasons for small benches:

- Huge backlog of cases means more Divisional benches (of max 2 members)
- Large vacancies
- Supreme Court itself has failed to check the rising number of special leave petition
- With PIL, people were empowered to reach directly to the SC, thus large benches could not handle all such cases.

Need for Large Benches

- A minimum 5 judge bench is a constitutional requirement
- It gives legitimacy in the eyes of the people and the political executive.
- wider consultation means less scope for judicial error

Recommendation :

- An alternative could be to create a 'Constitutional Court', like in France to deal exclusively with the matters related to interpretation of constitution.
- Increase number of SC judges

9. (a) 'It is not necessary that everyone receives equal treatment, but everyone must be treated as equal'. Explain Article 14 of the Indian Constitution in light of the above statement. 5

यह आवश्यक नहीं कि सभी को समान उपचार प्राप्त हो, परन्तु सभी के साथ समान व्यवहार होना चाहिए। इस कथन के आलोक में भारतीय संविधान के अनुच्छेद 14 की व्याख्या कीजिए।

(b) Empowered Group of Ministers lead to early and effective decision-making on particular issues. Critically analyse. 5

“अधिकार प्राप्त मंत्रियों का समूह” विशेष मुद्दों पर त्वरित और प्रभावी निर्णय लेता है।
आलोचनात्मक विवेचना कीजिये।

10. The Cabinet Secretariat has to play a creative, functional, informative and coordinative role in the Cabinet's functioning. Elaborate. 10
- मंत्रिमंडल सचिवालय मंत्रिमंडल के कामकाज में एक रचनात्मक, कार्यात्मक, सूचनात्मक और समन्वित भूमिका निभाता है। विस्तार से बताएं।

Cabinet Secretariat is the highest administrative decision making body.

Creative Role:

- As the highest administrative body under bureaucracy it demands innovation and creativity to sort out issues.
- it provides inputs and suggestion to the cabinet and its committees.

These inputs and recommendation require deft handling and out-of-the-box thinking, when multiple issues are at loggerhead.

Functional Role:

- It implements the decision of the cabinet and its committees.

Informative Role:

- It keeps in the loop the concerned ministers ~~about~~ and the PM about the implementation of its decisions.
- it informs the ministers about the agenda of the cabinet meeting
- it regularly updates the President's secretariat about the decisions of the cabinet.

Coordinative Role:

- The Cabinet Secretary is the head of the civil service. It thus acts as a

bridge among the services

- he acts as either the head of many ~~cabinet~~ committee of secretaries (cos) or coordinates among them
- he coordinates among the departments/ministries to ensure that the decision of the cabinet is implemented in an integrated manner.

11. Articles 256 and 257 have been a major bone of contention in the Union-State relationship. Contrast the provisions of the two and propose a framework for the relationship, which is coherent with federal and parliamentary nature of Indian democracy. 10

अनुच्छेद 256 और 257 संघ राज्य संबंध में विवाद की एक प्रमुख जड़ है। दोनों प्रावधानों की तुलना कीजिये और संबंधों की एक ऐसी रूपरेखा प्रस्तावित कीजिये जो भारतीय लोकतंत्र की संघीय एवं संसदीय प्रकृति के साथ सुसंगत हो।

Art 256

- The executive power of the state shall be exercised in such a manner so that ~~the~~ it is in conformity with the law of the Parliament. The Union Government can direct the states over such matters.

Art 257 :

- The executive power of the state shall be exercised in such a manner so that it is in conformity with any executive action of the Union.

Difference:

Art 256 is in relation to the laws of the parliament, while Art 257 is in related to the executive power.

of the Union.
Framework:

- The Sarkaria Commission believed that structurally these provisions are right, only functionally there has been cases of misuse.
- Art 256, 257 ensures that the separation of powers as per the Schedule 7 is respected.
- There should be an Institutional mechanism, like a strengthened and an active Inter-state Council (Art 263), where any dispute related to encroachment of the powers of Union by state may be sorted out.
- In case of violation of Art 256 and Art 257, there will arise a situation of Art 365. Finally it may lead to Art 356. But before matter precipitates, consultation must be

held.

Thus the true spirit behind Art 25 and Art 257 is that it is a coercive instrument, whose beauty lies only when it is very sparingly used. When it is dead, it is lost. But it should not be removed.

12. (a) Critically appraise the utility of fundamental duties in the Constitution of India.

5

भारत के संविधान में मौलिक कर्तव्यों की उपयोगिता का आलोचनात्मक मूल्यांकन कीजिए।

(b) What are Lok Adalats? Can they serve as an alternative to the regular legal redressal mechanisms available through courts? 5

लोक अदालतें क्या हैं? क्या ये अदालतों के माध्यम से उपलब्ध नियमित कानूनी निवारण तंत्र के एक विकल्प के रूप में काम कर सकती हैं?

13. Supreme Court judgment on transgender rights is a milestone in transgender people's struggle for identity. Comment. Enumerate steps taken by the government in this regard. 10

"ट्रांसजेंडर लोगों के अधिकारों" पर उच्चतम न्यायालय का निर्णय, इन लोगों के द्वारा अपनी पहचान हेतु किये जा रहे संघर्ष के लिए एक मील का पत्थर है। टिप्पणी कीजिये। इस संबंध में सरकार द्वारा उठाए गए कदमों को सूचीबद्ध कीजिये।

- The recent verdict of SC has held that 'transgender' are the third gender. It recognizes their unique sexual differences. The SC has said that they should be given OBC reservation.
- This landmark judgement has given a formal identity to them. Previously

they were forced to opt for the category of either male or female.

- It was a new form of struggle by one of the most marginalized and ostracized section of our society.
- SC has said that Art 21 is not only Right to Life, but ~~it~~ it is a Right to life with dignity.

Steps taken by the Government:

- In application forms like that of Aadhaar etc, a new column for third gender is introduced
- their special need for Health care would be initiated
- The Government is ready to include them in OBC category and for that it ~~will~~ has sought a clarification of the SC.

14. Judicial Activism has hurt the separation of power principle in India and is not healthy for Indian polity. With the help of few judgments given by the Supreme Court of India, critically analyse this statement. 10

न्यायिक सक्रियता ने भारत में शक्ति पृथक्करण के सिद्धांत को आघात पहुंचाया है और यह भारतीय राजनीति के लिए स्वस्थ प्रक्रिया नहीं है। भारत के सर्वोच्च न्यायालय द्वारा दिए गए कुछ फैसलों की मदद से इस कथन का आलोचनात्मक विश्लेषण कीजिये।

The Indian constitution is based on the Principle of Separation of Power.

However, this relationship between the Executive and the Judiciary has been dynamic. Judicial Activism has come to fulfill the lacuna created by policy / inaction of the executive.

Arguments in favour of Judicial Activism:

- When the executive suffers from policy paralysis, inaction or is influenced by malices like political expediency, then other organ of the state i.e. Judiciary comes as a protector of the citizens.

e.g. in the Prakash Singh case, the Judiciary had to frame a guideline for Police Reform. The executive ~~was~~

and political parties had vested interest in keeping complete hold over a colonial mindset policy.

- India is suffering from pervasive corruption.

SC ~~case~~ had washed the 'Single Directive' in Vineet Narayan case of 1997.

Arguments Againsts Judicial Activism

- Judiciary has tried to become all powerful. As a final interpreter of the constitution, this shift in the balance of power is dangerous
e.g. The collegium system is nowhere mentioned in the constitution. By creating it, the Judiciary has removed check & balance and has become unaccountable.
- In policy domain, lot of expertise is required. It has

technical and financial implications.
Judiciary is ill equipped for this,
e.g. Inter-linking of rivers.

Conclusion

- need is that executive must pro-actively fulfill ~~the~~ its role.
 - Judiciary has to show self-restraint.
- It is not the Judicial Activism which is harmful, but the cause ~~that~~ which forces the Judiciary to over-step is harmful.

15. Tribunals are a mechanism that provides an alternative to the regular court machinery. Briefly highlight the salient features of Tribunals. Also enumerate the types of tribunals in India on the basis of their method of creation.

10

न्यायाधिकरण एक ऐसा तंत्र है जो नियमित अदालती मशीनरी के लिए एक विकल्प प्रदान करता है। संक्षेप में न्यायाधिकरण की प्रमुख विशेषताओं को बताइए। इसके अलावा न्यायाधिकरण के गठन की पद्धति के आधार पर भारत में इनके प्रकारों की गणना कीजिए।

Salient Features:

- Tribunals are not bound by Code of Civil Procedure.
- They can formulate the conduct of their own proceedings.
- They ~~are~~ mostly care for Principle of Natural Justice.
- They are sector specific.

- It is less costly
- The applicant need not hire lawyers and can directly represent himself.

Types of Tribunals:

(1) Statutory Tribunals created under the provision of Constitution

• Art 323A

- a parliament by law may establish an Administrative Tribunal
eg - the central Administrative Tribunal

• Art 323B

- a parliament or state legislature by law may establish Tribunals for 'other matter'.

(2) Statutory Tribunals

- These are tribunals which are created under the law.

eg. ~~TRAI~~, Securities Appellate Tribunal,

(3) Tribunals Established by Executive
~~Order~~ Resolution:

- only executive order has setup
the tribunal

eg. Coal Authority Appellate Tribunal

16. What is the difference between Exit and Opinion Polls? Should Opinion polls be banned on the ground that they influence the voting behaviour of people? 10

एग्जिट पोल और जनमत सर्वेक्षणों के बीच क्या अंतर है? क्या जनमत सर्वेक्षणों पर प्रतिबंध लगा दिया जाना चाहिए, क्योंकि वे लोगों के मतदान व्यवहार को प्रभावित करते हैं?

Exit Polls

- opinion of the voters are surveyed after they have actually voted.
- It is banned for Electronic media

Opinion Polls

- the researcher tries to get the opinion of the voters about their inclination for voting in the next few days.
- It is not banned.

There is an increasing demand that on the lines of Exit-Polls, even opinion polls must be banned.

Arguments in support of Banning.

- India still have large percentage of population, which is illiterate. So they may be unduly influenced by opinion polls.

- opinion polls in India are not very transparent in their conduct. Recent expose by a media channel has shown that they may be compromised. eg. India news
- Even when they are honest, the techniques of psychology and opinion poll survey are still not developed.

Arguments ~~the~~ Against Banning:

- Our constitution makers had great faith in the wisdom of our people. we provided Universal Adult Franchise even in the 1951-52 General Elections. So do not underestimate the wisdom of the masses.
- With every passing election, the techniques of psychology and survey is getting more and more

efficient. so learning will be counter-productive
way forward:

- Opinion poll Agency must be regulated by Election Commission
- Accountability and Transparency is a must. so they must file all their methodology, expenditure, revenue, etc on Election Commission website. It should be open to public.

17. What are the current provisions regarding treaty making in the Indian Constitution? What impact did these provisions have on center-state relations? Suggest few measures to introduce the element of accountability in the treaty making process. 10

भारतीय संविधान में संधि करने के बारे में वर्तमान में क्या प्रावधान है? इन प्रावधानों का केन्द्र-राज्य संबंधों पर क्या प्रभाव पड़ा है? संधि करने की प्रक्रिया में जवाबदेहिता सुनिश्चित करने हेतु कुछ उपाय सुझाए।

Current Provisions:

- Art 253 gives the power to the Union Government to make a law in the Parliament for implementing the provisions of any treaty.
- Thus Art 253 allows the Union to supersede the division of power

both legislative and executive, as envisaged in Schedule 7.

Impact on Centre-State Relations:

- Since Art 253 usurps the powers of states, so states have represented their grievances to many commissions
- = It is yet another feature of the bias towards Union in our federalism
- It is Financial Implications. The states may be required to fulfill the obligation of such law without adequate compensation.

Measures suggested:

- Such an unchecked power of Art 253 has been criticized by many experts.
- There must be some Institutional mechanism like Inter-State Council which should debate over the powers of the Union.

- States must be taken into confidence before a treaty is made.
- The Financial responsibility on the states must be adequately compensated.
- Finally a law should be made, to clearly specify areas where centre will have free hand (e.g. Defence) and where it compulsorily need to keep the states into confidence.

18. (a) "Prime Minister represents the executive government in a way that no single member of the Council of Ministers (CoM) or even the entire CoM can." Discuss.

5

प्रधानमंत्री कार्यकारी सरकार का इस प्रकार प्रतिनिधित्व करता है कि कोई भी एक सदस्य यहाँ तक कि पूरी मंत्रिपरिषद भी नहीं कर सकती। चर्चा कीजिए।

(b) "The Directive Principles of State Policy are socialistic in their direction and content." Examine. 5

राज्य के नीति निर्देशक सिद्धांत अपने निर्देश एवं विषयवस्तु में समाजवादी हैं। चर्चा कीजिए।

19. 'Candidates should not be allowed to contest election simultaneously for the same office from more than one constituency.' Comment. 10

उम्मीदवारों को एक से अधिक निर्वाचन क्षेत्रों से समान पद के लिए एक साथ चुनाव लड़ने की अनुमति नहीं होनी चाहिए। टिप्पणी कीजिये।

The RP Act 1951, allows a candidate to contest election from at maximum two constituencies for the same office.

In the recent LS election, this debate has gained ground.

Arguments in Favour of not allowing to contest from more than one constituency:

- It is nothing but an insurance whose premiums is paid by the people of India, as per Subhas Kashyap.
- If a person wins from both the seats, then a By-election is forced upon the people. This is waste of resources in a poor

Country like India'

- If a wins from one seat and loses from other, then it's question marks in the moral sense.

Thus it is needed that some stringent guidelines be made to stop the proliferation of this tendency.

2nd ARC suggests that the contestant must be made to bear at least a part of the expenditure which is incurred in the By-election.

20. District Planning Committees have so far failed in most of the States in emerging as an effective institution. Consequently decentralised planning at the level of Panchayats has not been realized. Critically analyse. 10
- जिला योजना समितियां एक प्रभावी संस्था के रूप में अधिकांश राज्यों में असफल रही हैं, परिणामस्वरूप पंचायत के स्तर पर विकेन्द्रीकृत आयोजना वास्तविकता को प्राप्त नहीं कर पाई है। अलोचनातामक विश्लेषण कीजिए।

The 73rd Amendment Act has created the institution of District Planning Committees for Decentralized Planning. However, even after 20 years they are marred by multiple obstacles. Some are as follows :

- (i) Many states have still not created DPC.

- (ii) DPC suffer from the 'encroachment' of the local MLs and MLAs. Thus grass root representation is marginalized and it has become a battle ground for party politics.
- (iii) They are not skilled enough. The expertise required is of very low quality.
- (iv) They are not sufficiently funded.
- (v) They merely collate the schemes and data given by panchayats and municipalities.

Thus the need is to provide Fund, Function and Functionaries.

- Capacity building must be done
- more experts from field like city planning, sociology, economics etc must be made members

21. India has become the first country to ratify the Marrakesh Convention that codifies exemptions to copyrights to benefit the blind and impaired readers. Discuss the importance of this event and the challenges that lie further ahead of it.

10

"माराकेश सम्मलेन" जो कि नेत्रहीन और दृष्टि विकलांग पाठकों के लाभ हेतु कॉपीराइट से छूट को संहिताबद्ध करता है, की पुष्टि करने वाला भारत प्रथम देश बन गया है। इसके महत्व और इसके आगे की चुनौतियों पर चर्चा कीजिये।

India has become the first country to ratify Marrakesh Convention of the World Intellectual Property Rights (WIPO).

Importance:

- It will help in the conversion of the existing and future copy right materials in alternate forms.
- It will help in exchange of books, literature etc. all across the globe in a format compatible with the needs of visually impaired.
- it acts as a tool of empowerment for some of the most marginalized people.

challenges:

- USA has not given consent for ratification.
- it is a huge task, with substantial funding requirement to convert the existing copy right materials

22. (a) Compare pressure groups in India with those in the west.
भारतीय और पश्चिमी दबाव समूहों की तुलना कीजिये।

5

(b) Pressure groups ensure that an individual's democratic rights are not confined just to the act of voting. Discuss. 5

दबाव समूह यह सुनिश्चित करता है की एक व्यक्ति का लोकतांत्रिक अधिकार सिर्फ मतदान कार्य तक ही सीमित नहीं है। चर्चा कीजिए।

23. The Election Commission has constantly taken measures to curb and prevent malpractices in elections. Point out few such measures taken by it recently. Also discuss its limitations in putting them into effect. 10
- चुनाव आयोग लगातार चुनावों में अनाचार या गलत गतिविधियों पर अंकुश लगाने और रोकने के लिए कदम उठाए हैं। हाल में इसके द्वारा उठाये गए कुछ कदमों को बताइए। इन कदमों को प्रभावी बनाए जाने की क्या सीमाएं हैं?

Election Commission has been very proactive in ensuring the conduct of election in a fair, transparent, peaceful manner.

Few Measures taken by EC:

- (i) It has made the e-filing of the antecedent of the candidates

as mandatory. Thus problem of leaving many columns as Blank will be sought out.

- (ii) It had put in place video-recording of the election procedure.
- (iii) It has tried to put a regulation on social media. The expenditure over the advertisement on the social media will be treated as part of candidate's election expenditure.
- (iv) It has issues several warnings to the erring candidates through Model code of conduct. This has the effect of shaming the candidates for their wrongdoing.
- (v) More IRS officers are deputed to check the issue of money-laundering.
- (vi) Highlighted bad power cases.

Limitations :

- (i) The moral code of conduct has only moral force.
- (ii) Problem of money laundering cannot be handled by any single agency, be it the Election Commission.
- (iii) In the absence of any comprehensive Electoral reforms, any act of EC is only a piecemeal approach.
- (iv) Problem of paid news is not treated as electoral offence. No clear law exists for this malpractice.
- (v) EC is resource constraint.

24. Well-wishers of the judicial system are more concerned about transparency and accountability of the procedure for appointment of judges of higher courts rather than who appoints them. Discuss. 10

न्यायिक प्रणाली के शुभचिंतक, उच्चतर न्यायालयों में न्यायाधीशों की नियुक्ति कौन करता है, की अपेक्षा न्यायाधीशों की नियुक्ति-प्रक्रिया में पारदर्शिता और उत्तरदायित्व को लेकर अधिक चिंतित हैं। चर्चा कीजिये।

The recent debate about the efficacy of collegium system has focussed largely over the issue of the mode of appointment of the judges.

But the larger issue is the need for Accountability and Transparency.

Issue of Transparency:

- The collegium system or the National Judicial Appointments Bill has changed the mechanism of appointment. They do not incorporate wider consultation mechanism. Also unlike in UK, where a notification for appointment is issued and candidates apply with their

someone, no such provision exists' -

- The antecedents of the potential candidates must be known beforehand. But unless a person is appointed, no one knows about him.

Issue of Accountability:

- The constitutional provision of impeachment is very difficult. No one has been impeached till date.
- ~~An Inform~~ A non statutory ~~Restatement~~ 'Restating the values in Judicial Life' is a moral guideline.
- recent cases of allegation of sexual misconduct by judges, bribery etc has not seen an adequate response by the judiciary to self-correct itself.

Thus Transparency and Accountability is as important as the procedure of appointment. At the same time the independence of judiciary should not be compromised.

25. Examine whether audit of CAG should be extended to industrial undertakings carried on by the government through private companies. Elaborate on the challenges that CAG may face in doing the same. 10
- परीक्षण कीजिये कि क्या नियंत्रक महालेखा परीक्षक के लेखांकन को, निजी कंपनियों के माध्यम से सरकार द्वारा किए गए औद्योगिक उपक्रमों, के सन्दर्भ में विस्तारित किया जाना चाहिए? नियंत्रक महालेखा परीक्षक द्वारा ऐसा किया जाने पर आने वाली चुनौतियों पर प्रकाश डालिए।

The recent SC verdict has said that natural resources are held by the government as trustees of the people. Therefore any contract of the govt with the private sector, where their is involved revenue or royalty for the government should come under the purview of the CAG Audit.

After liberalization, public money has been getting channeled through new ways like

- PPP
- local-self Govt
- mining, petroleum lease etc.

Since under Art 148, CAG has been treated as the Gardian of Public purse, so it is proper that CAG must have a role in the audit of private companies.

Few Examples which substantiate the need for CAG Audit:

- In satyam case, the private auditors were compromised.
- In Delhi, the Govt had ordered the audit of private electricity

distributors because of several complaints.

challenges for CAT

- Institutional capacity and manpower is limited
- Need more expertise in domain like PPP, Mining and Petroleum sectors.
- may face non-cooperative attitude of private companies

Way Forward :

- (i) Restrict with only those aspect of Regulatory audit where government revenue sharing claims are there. Do not audit the commercial aspect.
- (ii) Increase the expertise in wider field and enhance capacity.

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