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HJS Sup. (Mains)

**Previous Year Paper
(Civil Law-II)
23 Mar, 2024 Shift 1**



HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Punjab & Haryana Superior Judicial Service

MAIN WRITTEN EXAMINATION-2024

Civil Law-II

Time Allowed: 3 Hours

Max. Marks: 200

- Note(s):**
- (i) Candidates are required to attempt all questions in the same seriatim as they appear.
 - (ii) Marks are indicated against each question.
 - (iii) No extra answer sheet will be provided.
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1. (a) Ms. Pranita is a social worker from Akola District of Maharashtra. Considering the number of deaths of children in the *Adharbha* region, she filed a Public Interest Litigation (PIL) in the Supreme Court of India. The Supreme Court rejected the PIL and directed Ms. Pranita to the Bombay High Court, to exhaust alternative remedies.

Analyze the direction given by Supreme Court of India to approach the High Court of that State based on 'exhaustion of alternative remedy' and whether Ms. Pranita can pray for review of the decision of the Supreme Court whereby she was directed to approach the Bombay High Court? **15 marks**

(b) 'A' prays for issuance of writ of mandamus to debar 'B', an MLA, from practising as an advocate. According to 'A', 'B' being a public servant, cannot be permitted to practise as an advocate because, if 'B' is allowed to practice law he would charge fees from his clients and simultaneously, would also continue to draw salary from the public exchequer, which would be nothing short of professional misconduct. Comment with reasoning. **15 marks**

(c) Explain the protection granted by the Constitution to the civil servants against arbitrary dismissal or reduction in rank. Is there any situation where such protection is not available? **10 marks**

2. (a) Parliament enacted an Act providing for a maximum imprisonment of 3 years for any person found adulterating food items. The legislature of the Punjab amended the law and increased the imprisonment to 7 years. This amendment received the assent of the President. Subsequently, Parliament amended the Act, and imposed the maximum imprisonment of 5 years. Examine the validity of the State amendment after the subsequent amendment by Parliament. **15 marks**

(b) Rajani is working with a private software company called 'RVC TECSOL', based in Hyderabad. She is deputed as the head of a project to be delivered by the company on 20/12/2019. She applies for leave, well in advance, to go to her native town to cast her vote in the Assembly Elections to be held on 18/12/2019. However, her leave is canceled on 17/12/2019 which is communicated through mail to her, considering the urgency of delivering the project. Rajani being aggrieved by the decision of the management intends to bring an action against the company for the violation of her fundamental rights. Will she succeed?

15 marks

(c) Bhuvana Sharma and Ganpat Chambar are classmates. Ganpat belongs to Schedule Caste, whereas Bhuvana belongs to the upper caste Brahmin. They fell in love and eventually got married. Bhuvana appeared in a written test for a Group - II post. She applied under the SC category. She could have gotten the post under the SC category with the marks obtained in the written test. However, the Public Service Commission Chairperson refused to recognise Bhuvana as candidate under the SC category. Bhuvana approached the High Court, asking the court to direct the State to appoint her on the post under the SC category, as she had married Ganpat, who belonged to the SC category and being his wife, she would be entitled to get the social status of her husband. Decide. ✓

10 Marks

3. (a) Mahesh and Pooja want to get married. However, the grandfather of Pooja told them that they are related to each other and it's not advisable to have a marriage among relatives. The father of the maternal grandfather of Mahesh is also the paternal grandfather of Pooja. However, they are not sure whether they are prohibited to marry under the Hindu Marriage Act, 1955. Advise them whether their marriage is permissible and explain how the sapinda prohibitions are ascertained based on relevant rules. (Explain with diagram).

15 marks

(b) Section 6 of Hindu Succession Act, 1956 confers the status of coparcener on daughter as amended by Hindu Succession (Amendment) Act 2005. A father who was a coparcener in Hindu Joint family, was not alive when amendment in Section 6 of Hindu Succession Act, 1956 came into force. Whether his daughter would become a coparcener of Joint Hindu Family property?

15 marks

(c) Who can be taken in adoption? Can a child of 15 years of age or above be taken in adoption under the Hindu Adoption and Maintenance Act, 1956? Is there any exception to the general rule in this regard?

10 marks

4. (a) "Courts in this country do not undertake the task of declaring a piece of legislation unconstitutional on the ground that the legislation is "arbitrary" since such an exercise implies a value judgment and courts do not examine the wisdom of legislative choices unless the legislation is otherwise violative of some specific provision of the Constitution" In the light of the above statement, critically analyze the judgment given in the case of Rajbala v. State of Haryana 2016 (2) SCC 445. **10 Marks**

(b) What do you understand by the concept of social justice? Discuss the Constitutional scheme for providing social justice to different segments of society. Do you agree that Article 21 of the Constitution is also used as a means by the Indian Judiciary to impart social justice to vulnerable sections of different classes of society? Justify your answer.

10 marks

(c) Write notes on the following

(i) "Heydon's rule is not always operative in the interpretation of the statutes".

10 marks

(ii) Rule of *expressio unius est exclusio alterius* in the interpretation of the statutes. ✓

10 marks

5. (a) Discuss in detail about the powers of Natural and Testamentary Guardians under Hindu Minority and Guardianship Act, 1956? **10 marks**

(b) Discuss the circumstances under which a landlord can exercise his/her right to evict a tenant. **10 Marks**

(c) Discuss the powers and duties of a Karta. Under which situations, can a Karta alienate the Joint Hindu Family property? Can a woman become Karta of a joint Hindu Family? Explain with leading case laws. **10 marks**

(d) Govind, a Hindu male had two sons, Shankar and Raju. Shankar married a Hindu female and had two sons out of the marriage. Raju much against the wishes of his father, married a Christian woman, and converted to Christianity. He also had two sons who were brought up as Christians. Shankar and Raju died and later Govind also died. The sons of Shankar and Raju are claiming the property of Govind, their Grandfather. Decide who can inherit the property of Mr. Govind according to the Hindu Succession Act, 1956. **10 marks**

