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JKPSC Prosecuting Officer (Mains)

**Previous Year Paper
Constitutional Law
Paper-II 17 Feb 2022**



Total No. of Printed Pages-4]

Roll No. _____

PAPER - II
CONSTITUTIONAL LAW

Time Allotted - 3 Hours

Maximum Marks-250

INSTRUCTIONS

- i) *Question paper contains Two parts A and B.*
- ii) *Any Five questions in all selecting minimum Two questions from each part.*
- iii) *All questions shall carry equal marks.*
- iv) *The part/parts of the same question must be answered together and should not be interposed between answers to other questions.*
- v) *If you encounter any typographical error, please read it as it appears in the text book.*
- vi) *Candidates are, in their own interest, advised to go through the General Instructions on the back side of the title page of the Answer Script for strict adherence.*
- vii) *No continuation sheets shall be provided to any candidate under any circumstances.*
- viii) *Candidates shall put a cross (×) on blank pages of Answer Script.*
- ix) *No blank page be left in between answer to various questions.*

PART - A

1. (a) A country may have the 'Constitution' but not necessarily 'Constitutionalism'. Discuss critically. (15)
(b) Discuss how do you understand that the term Constitutional law is broader than the Constitution. Differentiate. (15)
(c) Rule of law does not mean rule according to the statute, plain and simple, because such a statute may be unjust, harsh, discriminatory or inequitable. It connotes some higher kind of law that is reasonable, just and non-discriminatory. Discuss. (20)
2. (a) What is the meaning of collective responsibility of ministers to the popular house of legislature? What do you think constitutionally, if it happen in case a minister who publically disagrees with the policy as agreed by the Cabinet? (15)
(b) Discuss in detail the ordinance making powers of the President of India? Do you think President can issue an ordinance amending the Tax laws enacted by Parliament? Examine constitutionally and comment. (15)
(c) Write a detailed note on amplitude of powers and functions of Election Commission of India under Art 324 of Indian Constitution with the help of decided case laws. (20)
3. (a) The Constitution has conferred a limited amending power on Parliament, Parliament cannot under the exercise of that limited power enlarge that very power into absolute power. Limited amending power is one of the basic features of our Constitution and therefore, the limitations on that power cannot be destroyed. Comment. (25)
(b) Any process for appointment of judges must necessarily be conducive for establishment of not only an independent judiciary but also ensure its efficiency by having Judges who decide causes brought before them expeditiously and efficaciously in keeping with the principles of jurisprudence and generate sufficient confidence in the litigants and polity that they indeed dispense justice. How far do you think 99th Constitutional Amendment Act, 2014 would have helped, or defeated, the stated objective if it were to be allowed to be put in operation by the apex court. Discuss in detail the judgment of Supreme Court in *Supreme Court Advocates on Record Association v. Union of India* (2015). (25)
4. (a) The Right to Freedom of Religion is not an absolute right. Discuss in details how the courts have evolved 'essential practices test' to identify what practices deserve constitutional protection and what practices may be subjected to state control and regulation. Discuss with the help of decided case laws. (25)
(b) Parliament passes a law placing absolute ban on reporting of communal riots in any part of the country on the ground that it is prejudicial to public order. Can such a law meet the test of 'reasonable restrictions' contained in clause 2 of Article 19? Discuss with the help of constitutional provisions and decided case law. (25)

PART - B

5. (a) Preamble to the Constitution of India is a window to the minds of constitution makers using which one can understand the general purposes for which several provisions were made. Discuss the relevance of Preamble as an aid in the interpretation of the Constitution. (15)
- (b) Suppose Union Government proposes to delete reference to 'socialism' in the Preamble by way of a constitutional amendment. Do you think such an amendment would be constitutionally valid? Discuss in the light of decided case laws. (15)
- (c) Do you think that state boards can introduce such text books that contain lessons on religious figures and divine figures of all major dominant religions? Do you believe that such a move will violate the constitutional commitment to secularism in India? Comment in the light of contemporary situation. (20)
6. 'X' was a Member of Parliament representing an Indian state in Rajya Sabha. He was caught on camera by an investigative journalist seeking money from interested individuals to raise their questions on the floor of the House. The said tapes were played on National News on 23-09-2021. He claimed that the tapes were doctored. The matter was referred to the Ethics Committee of Rajya Sabha which submitted its report to Hon'ble Chairperson stating that the tapes were neither doctored nor tampered. The Rajya Sabha adopts a resolution expelling him from membership of the House for the rest of his tenure. 'X' approaches Supreme Court seeking to quash the said action. Discuss the following:
- (a) Comment in the light of decided case law and constitutional provision, whether the Supreme Court have the power to decide the scope and content of powers and privileges of the Parliament? (15)
- (b) Discuss in the light of Constitutional provisions and decided case law, can it be said with reference to Article 105 of the Constitution that parliamentary privileges include the power to expel for the breach of privilege. (15)
- (c) In the light of decided case laws and constitutional provision, whether the power to expel is subject to the judicial review of the Supreme Court? (20)
7. (a) A, B, C, D, E, F, G, H along with 20 others were appointed as Governors of their respective Indian states by the Union Government from time to time during its previous tenure. On account of assumption of office by a new Prime Minister on 22-09-2021 they were all removed from office on account of the fact they were out of sync with the ideology of the newly elected Prime Minister and his cabinet. A, B, C, D, E, F, G and H approached Supreme Court under Article 32 of the Constitution seeking writ of certiorari quashing their removal from the office. Give your answer, in the light of constitutional provisions and decided case laws, whether petitioners are likely to succeed. (25)

- b) Abhigyan Singh is the Chief Minister of an Indian 'X' State. He assumed office on account of a post poll coalition between his own GaonVikas Part (GVP) party having 80 MLAs and another Indian Samaj Party (ISP) with 26 MLAs in a Vidhan Sabha with an effective strength of 201 MLAs. On 20-10-2021 Ms. Navjoti Kaur, President, ISP met the Governor and informed him that they have withdrawn support from the government of Mr. Abhigyan Singh and that Chief Minister be dismissed on account of the fact that he has lost the confidence of the House. Soon thereafter Mr. Abhigyan Singh met Governor and recommended that Assembly be dissolved and fresh elections be held. Discuss in the light of constitutional provision, do you think that the advice of CM Mr. Abhigyan Singh binding on Hon'ble Governor? Comment. (25)

8. (a) When the question arises that a particular legislation relates to a particular entry of in either list of the 7th Schedule of Article 246, the courts prefer to attach greater importance to the substance than mere form of the statute. In the backdrop of above statement explain the relevance of doctrine of pith and substance with the help of case laws and constitutional provisions. (25)
- (b) In order to deal with pendency of criminal cases against representatives of the people elected to Parliament and State Legislature, Union Government proposes to enact a new law constituting special courts in every district to expeditiously decide all cases pending trial in a fixed time period of one year. Discuss on its validity in the light of decided case laws and constitutional provisions. (25)