

IAS Mains Law Science 1996

Paper I

Section A

1. Answer any three of the following (each answer should be in about 200 words):
 - a. Does the right to life and personal liberty in Article 21 of the Constitution embrace a right to clean, healthy and livable environment, using the expression environment in its broadest meaning as understood in contemporary jurisprudence? Examine the question in the background of cognate constitutional provisions and case-law.
 - b. Examine the contention that the Constitution 44th Amendment which has radically altered the character and content of the right to property violates the basic structure of the Constitution.
 - c. The doctrine of pith and substance introduces a great deal of flexibility into otherwise rigid scheme of the distribution of legislative powers. Explain.
 - d. The High Courts power of superintendence under Article 227 is of an administrative as well as of judicial nature. Discuss.
2. Answer the following questions
 - a. To what extent the Supreme Court has put a check on motivated and arbitrary dismissal of State governments by the Centre under Article 356? Refer to case-law.
 - b. The right to receive compensation in proceedings under Article 32 of the Constitution for violation of the fundamental right to life and personal liberty by public officials cannot be defeated by raising a plea of sovereign immunity. Discuss with the help of case-law.
3. Answer the following questions
 - a. What is the scope and content of the phrase reasonable opportunity of being heard in respect of those charges in Article 311 (2) of the Constitution of India? Does it embrace a right to receive a copy of the inquiry officers report? Refer to the case-law on the subject.
 - b. Discuss the constitutional position of President of India. On the eve of general elections to the Lok Sabha and just after the last session of Parliament, the government sends an Ordinance to the President extending the benefit of job reservations to Dalit Christians. The President returns the Ordinance and asks the Cabinet to reconsider its advice. Is the action of President sustainable under the Constitution? Discuss.
4. Answer any two of the following:
 - a. Examine whether the opinion of the Chief-Justice of India in regard to the appointment of Judges to the Supreme Court and High Courts is entitled co primacy. Can the President of India disregard the said opinion when it is in conflict with the advice tendered by the Council of Ministers? Refer to the constitutional issues and the case-law on the point.
 - b. X has been sentenced to death for having committed several murders. He writes his

autobiography depicts a close nexus between X and some top government officials, some of whom had been partners in these murders. Z, a publisher accepts the autobiography for publication. The Inspector-General Persons asks Z to stop publication of Xs autobiography as it contains defamatory material against State officials and is false. Z contends that the Inspector-General Prisons has no authority to impose a prior-restraint upon the publication of the autobiography. Decide.

- c. In order to ensure availability of timber to the common man at a reasonable price, the State of UP declared timber as an essential commodity and imposed a total ban on the movement of timber from Uttar Pradesh to any other area outside the State. The law imposing a total ban is challenged as violative of Article 301. Decide.

Section B

5. Answer any three of the following (each answer should be in about 200 words):

- a. A provision of treaty may sometime generate a rule of customary international law. Discuss.
- b. Discuss with the help of suitable illustrations the productive and creative role played by the United Nations in shaping, developing and extending the normative content of contemporary international law.
- c. While as a matter of international law, private rights acquired from an erstwhile sovereign do not cease to exist on a change of sovereignty, nevertheless, their enforcement as such rights in the courts of the successor sovereign may be barred by the act of State doctrine. Discuss and illustrate.
- d. The exclusive economic zone is sui generis and although not territorial, it nevertheless, importantly modifies the regime of the High Seas over which it extends.

Critically examine this statement drawing attention to the special features and legal incidents of this new maritime features and legal incidents of this new maritime zone as established by the UN Sea Law Convention-1982.

6. Answer the following questions

- a. Explain in the background of relevant U. N. Security Council Resolutions adopted in the context of the recent Gulf War and provisions of the U. N. Charter, the legal status of Operation Desert Storm mounted by the multinational forces under US Command to combat Iraqi aggression.
- b. During the last decade laws of war have been replaced by international humanitarian law by introducing human rights rules and standards in the law of armed conflict. Discuss.

7. Answer any two of the following:

- a. X, an American citizen published in Texas an article defamatory to a Mexican citizen Y. X was in Mexico on a temporary visit and was arrested by the Mexican government for prosecution. The US government protests against the action of the Mexican government. How will you decide?
- b. State X deposited some gold in State Y. There was a rebellion in State X and the rebels were successful in establishing a parallel government. After some times State Y granted de jure recognition to the new government formed by rebels. The new government claims the gold deposited in State Y by the old government. Decide.

- c. X was a terrorist. He caused two explosions in a Cafe in Sri Lanka. After committing the offence X fled to England, Sri Lanka demands extradition of X, X contends that the nature of his crime was political and therefore, he could not be extradited. Discuss the validity of the claim of X, referring to the principle of non-extradition for political crimes and the exceptions thereto.

8. Write short notes on any three of the following:

- a. Outer Space Treaty 1967
- b. Optional clause
- c. Nicaragua Vs USA. Case concerning military and para-military activities in and around Nicaragua-1986 I. C. J. Reports
- d. Rebus sic Stantibus in the Vienna Convention 1969 on the Law of Treaties