Total Time Alloted: 3 Hours

Total Marks : 250

Question Paper Specific Instructions

- Please read each of the following instructions carefully before attempting questions.
- There are EIGHT questions divided in two sections.
- A candidate has to attempt FIVE questions in all.
- Questions no 1 and 5 are compulsory and out of the remaining, THREE are to be attempted choosing at least ONE from each section.
- The number of marks carried by a question /part is indicated against it.
- Word limit in questions, wherever specified should be adhered to.
- Attempts of questions shall be counted in chronological order. Unless struck off, attempt of a question shall be counted even if attempted partly. Any page or portion of the page left blank in the answer book must be clearly struck off.

NOTE: Please take a printout of the answer Booklet and give answers in stipulate time. So that actual examination scenario is stipulated.

Name: ABHISHEEL JAISWAL

Subject: LAW - Paper 2.

Phone: [redacted]

Criterion	Average	Good	Best
Presentation			
Content			
Structure			

Teacher's Remark

-> write to the point answers -> good lang
-> Introduction Improvement -> cite Judg/sc

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(Section -A)

Q.1(A). The rule of law is a set of principles, or ideals, for ensuring an orderly and just society. Discuss **(10 Marks) [150 words]**

Rule of law is a philosophical principle propounded by A.V. Dicey in 19th century in England.

As per rule of law, every organ of the government viz. Legislature, judiciary and Executive must act in conformity with the law of land.

Ensure orderly Society

The Supreme Court in Indira Gandhi v. Raj Narain, when executive and Parliament transgressed their power so as to affect democracy, declared rule of law as basic structure of Indian Constitution. The court later in many

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cases such as Anuradha Bhasin v. UOI, reminded that in a constitutional government, for orderly society each organ must work within confine of law and not on whims.

Promotes just society

The principle of rule of law has been embedded under Art 14 of the Constitution and equality before law is guiding factor. The court in Mohd. Arif v. UOI has declared that equality must not be merely formal but also substantive in nature.

Thus, when arbitrariness in action is removed, then rule of law prevails in action.

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Q.1(B). Anti-defection law makes the members of parliament makes them more answerable to their party rather than public. Do you think it should be abolished? **(10 Marks, 150 words)**

The Parliament of India in 1985 through 52nd Amendment Act introduced Xth Schedule in Constitution which deals with defection. The aim of anti-defection law is to purify the process of election & ~~to save democracy that candidates once elected on a party ticket do not change it.~~

Provisions of Anti defection law

1. Bound to follow whip and vote accordingly.
2. Decision of Speaker would be final in deciding defection.
3. Cases of defection →
   - when leaves party
   - when joins any other party
   - when elected as independent but joins party
   - joining party after 6 months of nomination.

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The Supreme Court in Kihoto Hollohan v. Zachillhu, while deciding on finality of decision of Speaker held that Speaker is final authority to decide defection but subject to judicial review. However, such judicial review is only possible after Speaker has taken decision.

Similarly, in Pratap Gouda Patil v. Speaker, Karnataka 2019 SC, gave the supremacy to Speaker and even declared that it can suspend MLAs for certain time but not from contesting election.

However, the Speakers must decide the cases within time to make law more effective as said in Public Interest Foundation v UOI and hence it should not be abolished.

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Q.1(C). Doctrine of basic structure establishes judicial supremacy in matter of constitutional amendments. Elucidate [10 marks, 150 words]

The Supreme Court of India in order to limit the power of Parliament to amend constitution, in [Keshvand Bharti vs State of Kerala 1973 SC], propounded doctrine of basic structure. which cannot be amended.

Reason for doctrine

Initially, the Supreme Court while delving on Art 368 in case of [Shakari Prasad Deo v. State UOI], held that Parliament has unlimited power to amend which was reiterated in [Sajjan Singh v. State of Punjab 1965 SC].

But later the Court in [Golak Nath v. State of Punjab 1967 SC], while interpreting Art 368 said that marginal note

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of Art 368 only says "Procedure to amend" and not "Power". Power is under Art 245 and hence amendment is like any other law and is restricted.

24th Amendment, 42nd Amendment & Keshvanand

Parliament through this amendment overturned the dictum of Golak Nath case to give parliament unlimited "power" to amend. But the court in Keshvanand Bharti, Minerva Mills, IR Coelho case restricted power of Parliament. This, in turn, gave judiciary an Extra-constitutional power to curb the Parliamentary supremacy.

Court later in Ram Nagaraj v UOI also gave 'width' test to limit the Amendment power.

write how this doctrine have been structure over time

Q.1(D). Write a short n
marks] [150 words]

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Q.1(D). Write a short note on modern progressive approach on principle of natural justice. [10 marks] [150 words]

Principle of Natural Justice is a common law principle which court use a principle of Natural law to adjudicate upon any administrative action.

Core of Principle of Natural Justice

1. No one should be decided unheard (Audi Alteam Partem)

In [Ridge v. Baldwin 1964 HL], when the plaintiff was dismissed by service without fair hearing, it was held that right to fair hearing is a right of principle of Natural justice and is must.

The Supreme Court in [G. Nageswara Rao v. State of AP], reiterated it and said that hearing must be given by the authority

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who is to decide case.

However, in modern approach since the authority has left of other tasks to perform, they can also give post-decision hearing as held in (Maneka Gandhi v. UOI)

2. Rule against bias (Nemo debet esse judex in propria causa)

Hence no one should be judge in his own case. Rule of PNJ requires procedural as well as substantial fairness.

In (A.K. Kraipak v. UOI) it was held that there must exist real likelihood of bias to attract natural justice.

With the growth of administration, transparency & good governance are now also most important part of natural justice.

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Q.1(E). What is the place of Tribunal within constitutional framework in India? Do you think tribunals is best suited for resolving disputes? [10 marks, 150 words]

The Parliament through 42nd Amendment introduced Act 323A & Act 323B as administrative tribunal and tribunal for "these matters" respectively. Thus, it would lead to speedy & cost-effective justice.

Art 323A (d) & Art 323B (d).

Initially, in [SP Sampath Kumar v. State 1987 SC], SC held the provision which bypassed High Court and allowed appeal directly to Supreme Court. The court gave reasoning that it can act as an effective alternative.

However, later court in [L. Chandra Kumar v. UOI 1997 SC], held the provisions as unconstitutional & violative of judicial review.

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The Court said that tribunals can only act as alternative institutional mechanism to aid judiciary and cannot replace High Court.

Tribunalisation of Justice

The Supreme Court in Rojer Mathew v. Vol 2019 SC, while delving on issue through Justice Chandrachud said tribunals are very much needed when courts are overburdened to provide speedy, cost-effective and less procedural justice. Especially, they have better expertise on matters like competition law, arbitration, etc.

Thus, the tribunals must act as an alternative mechanism so that people can get justice in easy manner.

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Q.2(A) What are the various protection available to civil servants under Art. 311 of the constitution? **(20 Marks, 300 Words)**

Art 311 of the Indian Constitution is a classic example of incorporation of principle of natural justice explicitly. It guarantees civil servants security of tenure to exercise their duty without any fear and favour.

Protections available

(1) Civil Servants cannot be dismissed, removed or reduced in their rank without affording of reasonable opportunity of being heard and (2) that too by their Seniors.

Hence, an action where they have been removed, dismissed or

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reduced in rank without affording fair opportunity or by juniors would be per se illegal as held in UoI Vs Tulsi Ram Patel 1985 SC

Also, in PL Dhingra V. UoI 1958 SC, SC clarified the term 'reduction in rank' i.e. person cannot be reduced in rank below a substantive post through which he was appointed. Hence, an order of railway ~~dismissing~~ reducing its officer below his appointed post was declared illegal.

(2) Exception to the rule

However, it is not possible in present day workload to afford opportunity of being heard

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(1) where decision is related to national security & imminent action needed.
(2) when due to exceptional circumstances no hearing can be given; or
(3) allowance of post-decisional hearing as agreed in Maneka Gandhi v UOI 1978 SC.

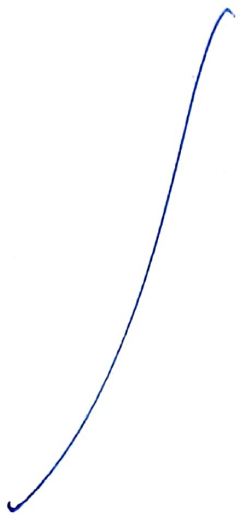
In such circumstances, not providing opportunity of being heard is justified.

However, the Supreme Court in various appeals from CAT has time & again reiterated that the order of authority must be sound and speaking otherwise such disciplinary action would be per se illegal [Rajendra v. State of MP 1992 SC]

Statute

8

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Q.2(B). Discuss the power and function of Election commission. Do you think it is truly independent with sufficient Power? . **(15 Marks, 250 Words)**

Art 324 of the Indian Constitution has empowered Election Commission with certain power & function to conduct free and fair election. In fact, the Court in (India Gandhi v. Raj Narain 1975SC held that free and fair election is part of basic structure.

Powers of the Election Comission

1. Once model code of Conduct is enforced after declaration of election, EC has control over administration except on day to day matter.
2. During election it can transfer various IAS, IPS from their posts.

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3. It recognises the rights of political parties in case of faction [Chirag Paswan v. LJP case].

4. Act as tribunal in case of a dispute within party or for matter of Art 136 [TN Seshan v. UOI].

5. Advise the President under Art 102 in case of disqualification of MP and advise is binding.

Functions of the Election Commission

1. Conduct election of President, Vice President, Lok Sabha, Rajya Sabha, Legislative Assembly and Councils.

2. Allocate party symbols to recognised par

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3. Registers political parties.
4. Enforce Model Code of Conduct.
5. Can even cancel elections (Eg) Death of candidate.

Truly independent with sufficient power

YES	NO
1. Functionally, conducts election without fear or malpractices since 1952.	1. Expenditure is not charged & hence dependent upon Govt. (Eg) Art 114 has no mention unlike CAG, UPSC.
2. Govt. does not interfere in its working.	2. Election commissioners have no security of tenure (Eg) Ashok Lavasa case.
3. Chief Election Commissioner removal is like that of SC Judge & difficult.	3. Law Ministry is nodal Ministry & needs to be consulted everytime.

→ Procedures

However, throughout the world the role of Indian Election Commission is recognised for conducting world's biggest election without any major misconduct.

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Q.2(C). What is rule against Bias? How does it affect principle of natural justice? (15 Marks, 250 Word

One of the established principle of Natural justice is nebo debet esse judex in propria causa i.e. no one should be judge in his own case. This in turn removes biasness from the decision taken and make it just fair & reasonable. It is also called as rule against bias

Types of Bias

1. Pecuniary Bias: when person makes monetarily under advantage of their office. In case of (Lalu Prasad Yadav. CBI 2014SC), the Supreme Court in case of personal gratification by accused found it

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as a case of pecuniary bias.

2. Personal bias :- when authority takes a decision taking into account consideration personal life. In A.K. Kraipak v. UOI, where the examiner appointed himself as his own evaluator, it became classic case of personal bias and was held against principle of natural justice.

Hence such actions are not based on objectivity and affects merit.

How does affect PNJ

Justice Hewart in R. v. Sussex called that "justice must not only be done, but must be undoubtedly be seen to be done".

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If authority would take decision where there appears real likelihood of bias then it would affect :-

i) equality as some other person would be favoured.

ii) lawlessness as people faith in law would reduce and so does justice.

iii) set as precedent which may affect decision taken later based on principle.

iv) Loss of legitimate expectation and would affect merit.

Thus, the natural law principle must be applied in letter and spirit to gain public confidence with respect to matter of law.

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Section – B

Q.5(A). Write a short note on power and function of Public Service commission. [10 Marks, 150 Words]

Art 315 to Art 323 of the Indian Constitution deals with powers & function assigned to Union Public Service Commission and State Public Service Commission.

Powers of UPSC / SPSC

1. To act as Constitutional machinery for various recruitement to public office.
2. Expenditure is charged and hence can work without fear & favour.
3. It has been given security of tenure and members can only be removed after enquiry of Supreme Court.

Statutes

In Lal Shankar Prasad v. State of Bihar, the Supreme Court held that even a blind

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person with excellent record can officiate office in UPSC.

Functions of UPSC/SPSC → Art 320

1. To conduct examination for recruitment to public office.
2. To conduct exam (UPSC) if two or more states request.
3. To give advise to the Govt:-
   i) on all matter of recruitment to civil service. 320(1)(a)
   ii) disciplinary action against civil servant.
   iii) principle for making appointment, transfer & posting etc.

The Supreme Court in (SCR Subramanian) also advocated for Civil Services Board to reduce political influence in transfer & posting of civil servants.

Union Pub Ser Com

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Q.5(B). Delegated legislation is essential for realizing the dream of welfare state. Do you agree? [**10 marks, 150 Words**]

Delegated Legislation is a law, bye-laws, rules, regulations, etc. which is made by the Executive as a subsidiary legislation when Legislature has provided skeleton to it.

I disagree not Partly I disagree

Need for welfare State

1. Today, the Legislature is overburdened and all matters can't be debeated thoroughly in given time.
2. Legislature does not have expertise to legislate on every small matters.
3. Executive have better experience what would be the method for better implementation of law.
4. Delegation is only of non-essential legislative powers as held in Re Delhi Laws Case 1951 AIR

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Hence for better implementation of law it is very much needed that Executive agency must be given discretion in delegated legislation. This would fulfill aim of welfare state as public can get the benefits of law effectively.

Problem with Excessive Delegation

~~However~~ The Executive must not exceed the power given by the Parent Act otherwise it would breach the principle of parliamentary democracy.

The court as early as in Harakchand Ratanchand Banthia v UOI held a law invalid when parliament failed to provide guidance to executive on how to frame rules.

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Q.5(C). Legislative immunity is provided for free and fair functioning of legislature, it is not an evidence of supremacy among all organs. Comment [10 marks, 150 Words]

Art 105 of the Indian Constitution drawn from House of Commons Rules provides ~~legisl~~ Member of Parliament (~194 for MLAs) for exercise of free speech or publication of matter of Parliamentary proceeding.

For free & fair functioning] → Not a Supremacy.

1. So that MPs / MLAs can raise voice of citizens without fear or favour → Legislature.
2. Can criticise the Executive so as to make them accountable → Executive.
3. Also it limits under Art 122 not to criticize functioning of judges except during removal process under Art 124/217 → Judiciary

The Court in [Re Keshav Singh case] held that provision of parliamentary privilege is absolute and necessary for functioning of

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members in Parliament.

Later in (P.V. Narsimha Rao v. UOI) in this case, cash was given for voting & court held that MPs are 'public' servant & who have taken money & voted are having privilege to get protected.

Also in (TASM Khaema v. State) when a newspaper 'Searchlight' published proceeding of Parliament without authorisation it was held that house is competent to punish for breach of its privelege.

However, later through Art 361-B, immunity has been provided if person publishes any proceeding in good faith.

Recently, in (Raja Ram Pal v. Speaker) the court said in case of conflict between Art 105 & 19, primacy would be for Art 105.

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Q.5(D). Separation of power in the constitution is flexible and is against the rule of law. Do you agree? Argue [10 Marks, 150 Words]

Montesquieu, in 17th century gave the principle of Separation of Power where all 3 organs viz. Executive, Legislature, & Executive must act independently & exclusive of each other.

However, in Parliamentary form of Govt., such strict Separation of Power is not possible as Executive is part & parcel of Legislature. However, despite that the Supreme Court in Keshvanand Bharti v. State of Kerala, held Separation of Power as basic structure.

Hence, there is not strict separation of power, in Indian Constitutional scheme.

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Against Rule of Law

Art 50 of the Constitution gives direction to State to separate Judiciary from Executive so that it does not affect rule of law & justice. The Supreme Court in (P. Sambamurthy v. State of AP 1973 SC), declared Art 371-D as unconstitutional which authorised Executive to overlook decision of Tribunal.

Overview → However, Indian Judiciary in cases like P. Sambamurthy has assured that all 3 organs of Constitution work well within their realm and does not affect separation of power. Unfortunately, the Supreme Court, though, itself through Judicial activism has tried to enter into realm of Executive.

(E)

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Q.5(E). Justice should not be done but should manifestly and undoubtedly seem to be done. Discuss. **[10 Marks, 150 Words]**

Lord Hewart in R. v. Sussex, held that "Justice must not only be done, but must be manifestly & undoubtedly be seen to be done". Thus, the decision of any authority must not only be fair in action but also in process too.

The Indian View

The Supreme Court in Maneka Gandhi v. UOI 1978 SC, has held that to pass muster of constitutionality any legislative or executive action must pass test of just, fair & reasonable. Otherwise the law would be illegal, unjust & unreasonable.

The Court later in Mohd. Arif v. State of UP 2014 SC, held that procedural

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law as well as substantive provisions both must be fair.

Legitimate expectation, Manifest Arbitrary & Proportionality.

These 3 principles have been core features of administrative law. Justice Nariman in (Shayara Bano v. UOI 2017SC), held that if any action seems to be manifestly arbitrary, then it has to go. Similarly, in (KS Puttaswamy v. UOI), the Court declared that all action to look reasonable must be proportional in nature and must pass 3 prong test.

Thus, Judiciary has taken enough measure to declare an action illegal if it does not pass muster of constitutionality as provided above.

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Q.6(A). Excessive delegation in India is prohibited. Explain the contours with help of case laws which determines the limit of delegative power of parliament. **[300 words, 20 Marks]**

Excessive delegation is when the delegating authority exceeds the jurisdiction provided to it by authorising the delegate powers which cannot be delegated. Hence, it affects the 'rule of law' as power should be exercised to whom it is given.

Delegative Power of Parliament

The Indian Parliament under Art 107, 108, Art 368, Art 245, etc. has been given some powers to make laws. However, in modern world it is exceptionally not possible to make law on each subject matter and hence exists mechanism such as bye laws, rules, regulations, etc. which are also law under Art 13 (3)(a).

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However, there are certain essential legislative function which has to be done by the Parliament no matter how busy it is. The Supreme Court as early as in [Re Delhi Laws Case 1951], held a law invalid which allowed a pre-Constitutional law to delegate law making power to Executive. The Court held that Parliament can only delegate non-essential legislative function and not essential legislative function. Hence any delegation of power of essential legislative function would be excessive and illegal.

The court later in [Hamdard Dawakhana V. UOI 1985 SC], also made

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it clear that the Parliament has to take a policy decision by providing skeletal legislation which can later be filled up by Executive. Hence if power to frame skeletal is given to Executive, then it would be excessive delegation

Confusion in Supreme Court

In [Gwalior Rayon Mfg v. UOI], there arose a doubt about 'Abdication' of power, by legislature to Executive could be excessive or not. The Court held that it would be within its power.

However, such 'Abdication Test' given by Supreme Court is per se illegal and per incuriam found later.

Policy & Guidelines

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Changing ~~trend~~ Nature of Delegation

However, today the phenomenon of delegation is rampant and there is too much reliance on Executive. But to overcome it Parliament has ~~constituted~~ Parliamentary Committee on Delegated legislation which oversees all delegated legislation & brings it under scrutiny of Parliament.

But Executive usually delay such as in framing CAA Rules even after passage of law since 3 years and make law ineffective. Hence, the process on part of Executive to frame delegated legislation should be speeded up to make law effective in implementation.

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Q.6(B). Write a critical note on "Institution of Self government. [250 words, 15 Marks]

P.V. Narasimha Rao Govt. based on Thungon Committee, L.M. Singhvi committee, etc. passed 73rd & 74th Constitutional Amendment Act so as to provide institution of Local Self Govt. in India.

Need for Local Self Govt.

1. Democratic Decentralization :- so as to share power with 3 tier of the govt. viz. Panchayati Raj Institutions & Urban Local Bodies.

2. Devolution of Power :- so that local matters can be solved locally. (Eg) XI th & XII th Schedule are there to share subject

matters apart from VII th schedule.
(Eg) "Environment" is not in VII th but XII th Schedule and is important now due to climate change.

3. Provision of Reservation :- under Art 243-A to women & SC/ST compulsorily so that they can take part in election. Recently, Supreme Court allowed reservation for OBC in MP Panchayat election [~~Ashish Shelar~~ Vikas Gawali v. State of MH overturned in Suresh Mahajan v. State of MP 2022 SC].

4. Sharing of revenue as 15th Finance Commission recommended under Art 280 directly as tied fund. Also State Finance Commission grants compulsory deduction.

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Issues in Local Self Govt.

1. Holding of Continuous election is mandatory under Art 243-E but (Eg) in Chennai not held in last 10 years. Supreme Court in Suresh Mahajan Case held non-conduction of it is unconstitutional.

2. Problem of 3F
   - finance → no implementation of State FC. Report
   - functionary
   - function → no devolution of power under XI^th & XII^th Sch by State

3. Problem of Pati Panchayat where many men fight in reserve seats in name of women. Hence affect democracy.

Thus, the State Govt. must realise that they also have certain duties in decentralization of powers and must make local bodies as effective institution.

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Q.6(C). Discus the function of Finance Commission of India. Has coming of GST council limited its scope? **[250 words, 15 Marks]**

Art 280 of the Constitution provides that "President ~~must~~ shall constitute a Finance Commission once in every 5 years or as early when required to advise on matters as mentioned in terms of reference".

Function of Finance Commission

1. Under Art 280 it is bound by Terms of Reference to advise Centre on matters related to
   - → Share of revenue between Centre & state (Devolution)
   - → best practices to be adopted to increase revenue
   - → advise President on whether Policies

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of Govt. are bound in finance or need any changes, etc.

2. Under Art 275, it is bound to dictate Centre that has money will be granted as grant-in-aid to States in need. Hence, Centre need to follow fiscal prudence.

3. Under Art 281, it has responsibility to present its report along with recommendations to President. Thereafter, President shall compulsorily lay it on table of both House with reason for deviating from advise.

Measures for effectiveness of Commission

1. Make it as a permanent body.
2. Not to be always bound by Terms of Reference.
3. Must be given power to conduct better survey & report must usually be binding.

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GST Council vis-a-vis Finance Commission

Art 279A of the Constitution brings into existence GST Council as constituting body to advise on matters related to GST such as making of GST law, change in tax slabs, products under GST, etc.

Recently, the Supreme Court in [Vol vs. Mohit Minerals 2022 SC], explicitly made it clear that it is merely a recommendatory body on GST matters (indirect tax) and Centre/State not bound by its advise.

Whereas, Finance Commission is totally different as its functioning which overrides GST Council as it even directs how receipt of GST and other direct & indirect tax would be shared between State & Centre.

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Q. What is the Various ground on which administrative action can be challenged? Discuss case laws [300 words, 20 Marks]

Principle of Natural Justice is the core principle of Administrative Law or Droit Administratif which guides the action of administration - However, it has many angles and dimensions which increases it scope.

Various grounds of challenges

1. Procedural Impropriety : Hence action must be just, fair & reasonable in procedure as held in Maneka Gandhi v. UoI 1978 SC 597.

2. Fairness : Action must not look fair from outside but also must attain everyone confidence as held in SL Kapoor v. UoI

3. Reasonableness : Every action has reasonable expectation and if it deviates from it

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then it is call case of manifest arbitrariness as held in TRAI v. Cellular Association of India 2016 SC. Here authority allocated spectrum out of the reasonable expectation of tender process.

4. Illegality :- where action is per se illegal such as in Re allocation of 2g Spectrum Case 2012 SC

5. Proportionality :- the means adopted must be proportional to end it sought to be achieved. In (Anuradha Bhasin v Uoi 2020 SC) the administrative action of imposing S.144 CrPC in regular manner and curbing internet was held excessive use of discretion & court directed it must be done at Secretary level.

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6 Irrationality i.e. it breaches the principle of Wednesbury principle i.e. an action is so irrational than no common man can accept it as found in case of A.K. Kraipak v. UOI when an examinee himself evaluated his performance.

Modes of Review

Art 32, 226, 136, 227, 13, etc. has empowered High Court and Supreme Court under its inherent power of judicial review through writs, directions, orders, etc. to judge the constitutionality of administrative action. In fact the Court in Vineet Narain v. UOI, invented writ of continuous mandamus to oversee such action which

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invested the CBI to investigate & escape its responsibility in fixing liability of top politicians.

Similarly, the Court has used various strictures against the administration especially in environmental law cases to run and dictate Executive in taking action for good governance. For instance, Court under S.3 of Environment Protection Act directed in case of (TN Godavaeman v. UOI), to constitute authority when administration failed to take any action in Tanneries pollution.

Thus, Supreme Court has not only directed authorities from not taking illegal actions but also made sure that they must exercise their powers to exercise their discretion.

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Q.7(b). PIL is increasingly becoming tool for protecting private interest instead of public one. Discuss the use and misuse of PIL. **[250 words, 15 Marks]**

The Supreme Court in many cases have criticised the PIL for becoming as a tool for 'Publicity Interest Litigation', 'Paisa Interest Litigation' and has taken corrective measures that it should be a tool of public interest rather a private one.

The Genesis of PIL

Seervai notes that the first case of PIL in India was its origin in Pilu Modi V. State 1951 Bom. However, the Supreme Court started using it post Fertilizer Corpation Union V. FCI 1981SC case in India to allow raise any case of public interest before it and used

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Article 32(1) term "appropriate proceedings" to invent this proceeding.

Later in (SP Gupta v UOI 1982 SC), Supreme Court relaxed norms of strict locus standi to anyone to come & file case on behalf of any person who due to infirmity can't come to Court.

Use of PIL

1. To raise environmental concern : such as MC Mehta v UOI 1987 SC (Shriram Food Case) where Supreme Court brought absolute liability for hazardous enterprises. Also in Indian Council for Enviro Legal Action v UOI (Bichhri).

2. Human Rights violation : such as in case of mob lynching (Tehseen Poonawala v UOI),

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Expectation of Parliament (Mohd. Salimullah v. UOI)
for good governance such as bringing Office of CJI under RTI (Subhash Agarwal v. Supreme Court), election & criminal activities (PUCL v. UOI], etc.
to represent indigent, jail inmates, etc.
[Sunil Batra v. Delhi Admin., Akhil Bharatiya Soshit Kamachari Sangh Case etc].

Misuse
1. SC laid down strict guidelines in Balwant Singh Chaufal v. State of UK 2010 (3) to deal with such people.
2. Such as harassing public servant by filing vexatious petition [Ishi Chawla v. UOI 2020 Del for Publicity], limelight, etc.
3. To delay process of law such as in demolition of illegal construction, dharna, etc.

Thus, PIL must not be used to harass but to combat illegal things.

Q.7(C). Debate is still not settled on 'reasoned decision' as third pillar of natural justice principle. Elaborate with help of case laws. **[250 words, 15 Marks]**

The two pillar of principle of natural justice are ——————

audi alteram partem
↓
right to fair hearing.

nemo debet esse judex in propria causa
↓
rule against bias.

However, with growth of law & more accountability in action, there has been added 3rd pillar viz. 'reasoned decision' which is based on legitimate expectation.

Legitimate Expectation

People have certain expectation from the authority and if such expectation is genuine and not fulfilled and reason

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for it is given which is irrational and against Wednesbury principle then such decision is not reason as found in Ridge v. Baldwin.

Reasons → Satisfactory / Logical / Rational

It is very much pertinent that the order pronounced by authority must speak for itself and any reasonable man would be in situation to understand it. Otherwise it would not be rational and would have chilling effect [Modern Dental College v. State of MP 2016 SC] where order of granting reservation in medical seats was without backing of law & was not founded on reason was held unconstitutional.

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Debate Still continuing

However, unlike other two settled principles, the principle of 'reasoned decision' does not find mention in regular court practice and has many exceptions associated with it.

Hence, if authority can justify that in the case of impracticality, burdensome, national security, etc. a 'reasoned' decision could not be given then court usually accept such argument as seen in (Yeshwant Sinha v. UOI) (Rafale case).

Thus, in certain circumstances the principle of 'reasoned decision' could not be followed but it must be exception and not a norm.

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