

DEVI AHILYA VISHWAVIDYALAYA, INDORE

SYLLABUS OF ENTRANCE TEST FOR ADMISSION IN Ph.D. / M.Phil.

Subject - Law

PART-A Part A shall consist of 50 objective type compulsory questions of 1 mark each based on research methodology. It shall be of generic nature, intended to assess the research aptitude of the candidate. It will primarily be designed to test reasoning ability, data interpretation and quantitative aptitude of the candidate.

PART-B

Part-B shall be consist of 50 objective type compulsory questions of 1 mark each based on the following syllabus:

01 LAW AND SOCIAL TRANSFORMATION IN INDIA

1. Law and social change

Law as an instrument of social change, Law as the product of traditions, and culture, Criticism and evaluation in the light of colonization and the introduction of common law system and institute in India and its impact on further development of law and legal institution in India.

2. Religion and the law

Religion as a divisive factor, Secularism as a solution to the problem, Reform of the law on secular lines: Problems, Freedom of religion and non-discrimination on the basis of religion, Religious minorities and the law.

3. Language and the law

Language as a divisive factor: formation of linguistic states, Constitutional guarantees to linguistic minorities, Language policy and the Constitution:

Official language; multi-language system, Non-discrimination on the ground of language.

4. Community and the law

Caste as a divisive factor, Non-discrimination on the ground of caste, Acceptance of caste as a factor to undo past injustices, Protective discrimination: Scheduled castes, tribes and backward classes, Reservation statutory Commissions and Statutory provisions

5. Regionalism and the law

Regionalism as a divisive factor, Concept of India as one unit, Right of movement, residence and business; impermissibility of state or regional barriers, Equality in matter of employment: The slogan “sons of the soil” and its practice, Admission to educational institutions: preference to residents of a state.

6 Women and the law

Crimes against women, Gender injustice and its various form, Women’s Commission, Empowerment of Women: Constitutional and other legal provisions.

7. Children and the law

Child labor, Sexual exploitation, Adoption and related problems, Children and education.

8 . Modernization and the law

Modernization as a value: Constitutional perspectives reflected in the fundamental duties, Modernization of social institutions through law, Reform of family law, Agrarian reform-Industrialization of agriculture, Industrial reform: Free enterprise Vs. State regulation, Industrialization Vs. environmental protection, Reform of court processes – Criminal law: Plea

of bargaining: compounding and payment of compensation to victims, Civil law(ADR) Confrontation v. consensus; mediation and conciliation; Lok adalats, Prison reforms, Democratic decentralization and local self-government

9. Alternative approaches to law

The jurisprudence of Sarvodaya Gandhiji, Vinoba Bhave; Jayaprakash Narayan Surrender of dacoits; concept of grama Nyayalaya, Socialist thought on law and justice: An enquiry through Constitutional debates on the right to property, Indian Marxist critique of law and justice, Naxalite movement: causes and cure.

02 INDIAN CONSTITUTIONAL LAW: THE NEW CHALLENGES

1. Federalism

Creation of new states, Allocation and share of resources-distribution of grants in aid, The inter-state disputes on resources, Rehabilitation, of internally displaced persons, Center's responsibility and internal disturbance within states, Directions of the Centre to the State under Article 356 and 365, Federal Comity: Relationship of trust and faith between center and State, Special status of certain States, Tribal Areas, Scheduled Areas

2 “State”: Need for widening the definition in the wake of Liberalization

3. Right to equality: Privatization and its impact on affirmative action.

4. Empowerment of women.

5. Freedom of press and challenges of New Scientific development.

Freedom of speech and right to broadcast and telecast,

Right to strikes, hartal and bandh

6. Emerging regime of new rights and remedies.

Reading Directive Principles and Fundamental Duties into Fundamental Rights, Compensation Jurisprudence, Right to education, Commercialization of education and its impact, Brain drain by foreign education market.

7. Right of minorities to establish and administer educational institutions and state control.

8. Secularism and religious fanaticism.

9. Separation of powers: stresses and strain.

Judicial activism and judicial restraint, PIL: implementation, Judicial independence Appointment, transfer and removal of judges Accountability: executive and judiciary, Tribunals

10. Democratic process

Nexus of politics with criminals and the business, Election, Election commission: status, Electoral Reforms, Coalition government, stability, corrupt practice, Grass root democracy

03 JUDICIAL PROCESS

1. Nature of judicial process

Judicial process as an instrument of social ordering, Judicial process and creativity in law common law model Legal Reasoning and growth of law change and stability, The tools and techniques of judicial creativity and precedent, Legal development and creativity through legal, reasoning under statutory and codified systems, ;

2. Special Dimensions of Judicial Process in Constitutional Adjudications

Notions of judicial review, Role in constitutional adjudication-various theories of judicial role, Tools and techniques in policy making and creativity in constitutional adjudications, Varieties of judicial and

juristic activism, Problems of accountability and judicial law making,

3. Judicial Process in India

Indian debate on the role of judges and on the notion of Judicial review, The independence of judiciary and the political nature of judicial process, Judicial activism and creativity of the Supreme Court-the tools and techniques of creativity, Judicial process in pursuit of constitutional goals and values new dimensions of judicial of courts and judicial activism and structural challenges, Institutional liability of courts and judicial activism-scope and limits

4. The Concepts of Justice

The concept of justice or dharma in Indian thought, Dharma as the foundation of legal ordering in India thought, The concept and various theories of justice in the western thought, Various theoretical bases of justices: The liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

5. Relation between Law and Justice

Equivalence Theories –Justice as nothing more than the positive law of the stronger class, Dependency theories –For its realization justice depends on law, but justice is not the same as law, The independence of justice theories-means to end relationship of law justice the relationship in the context of the Indian constitutional ordering, Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

04 CONTRACT-I

1. General Principles of Law of contract

History and nature of contractual obligations, Agreement and contract: definitions, elements and kinds, Proposal and acceptance-their various forms, essential elements, communication and revocation-proposal and invitations for proposal-floating offers-tenders dumping of goods, Consideration-its need, meaning, kinds, essential elements-nudum pactum-privity of contract and of consideration-its exceptions- adequacy of consideration-present, past and adequate consideration-unlawful consideration and its effects views of law Commission of India on consideration evaluation of the doctrine of consideration, Capacity to contract-meaning-incapacity arising out of status and mental defect-

minor's agreements-definition of 'minor'-necessaries supplied to a minor-agreements beneficial and detrimental to a minor affirmation- restitution in cases of minor's agreements fraud by a minor agreements made on behalf of a minor-minor's agreements and estoppels-evaluation of the law relating to minor's agreements-other illustrations of incapacity to contract, Free consent –Its need and definition-factors vitiating free consent, Coercion-definition-essential- elements-duress and coercion-various illustrations of coercion-doctrine of economic duress-effect of coercion, Undue Influence-definition-essential elements – between which parties can it exist? Who is to prove it ? illustrations of undue influence-independent advice - pardahanashin women- unconscionable bargains- effect of undue influence, Misrepresentation - definition- misrepresentation of law and of fact –their effects and illustration, Fraud –definition-essential elements – suggestion falsi-suppressio veri-when does silence amounts to fraud? Active-concealment of truth-importance of intention, Mistake-definition-kinds-fundamental error-mistake of law and of fact-their effects-when does a mistake vitiate free consent and when does it not vitiate free consent? Legality of objects: Void agreements- lawful and unlawful considerations, and objects-void, voidable, illegal and unlawful agreements and their effects, Unlawful considerations and objects: Forbidden by law, Defeating the provision of any law, Fraudulent, Injurious to person or property, Immoral, Against public policy, Void Agreements, Agreements without consideration, Agreements in restraint of marriage, Agreements in restraint of trade-its exceptions sale, of goodwill, section restrictions under the Partnership Act, Trade combinations, exclusive dealing agreements, and restraints on employees under agreements of service, Agreements in restraints of legal proceedings its exceptions, Uncertain Agreements, Wagering Agreements its exceptions, Discharge of a contract and its various modes, By performance – conditions of valid tender of performance -how? By whom? Where? When? In what manner? Performance of reciprocal promises- - time as essence of contract, By breach – anticipatory breach and present breach, Impossibility of performance – specific grounds of frustration – application to lease theories of frustration – effect of frustration – frustration and restitution, By period of limitation, By agreement – rescission and alteration – their effect remission and waiver performance – extension of time – accord and satisfaction, Quasi- contract or creating relations resembling those created by contract, Remedies in contractual relations, Damages- kinds – remoteness of damages – ascertainment of damages, Injunction – when granted and when refused – Why? Refund and restitution, Specific performance – when? Why?

2. Government as a contracting party

Constitutional provisions – governments power to contract – procedural requirements – kinds of government contracts – their usual clauses – performance of such contracts - settlements of disputes and remedies.

3. Standard form contracts

Nature, advantages – unilateral character, principles of protection against the possibility of exploitation – judicial approach to such contracts exemption clauses- clash between two standard form of contracts – Law Commission of India's views.

4. Multinational Agreements

5. Strategies and constraints to enforce contractual obligation

Judicial methods-redressal forum, remedies, Other methods like arbitration, Lok adalat, Nyaya Panchayat and other such non formal methods, Systemic constraints in settling contractual disputes, Court fees, service of summons, injunctions, delay.

05 ADMINISTRATIVE LAW

1. Evolution , Nature and scope of Administrative Law

From a laissez-faire to a social welfare state, State as regulator of private interest, State as provider of services, Other functions of modern state: relief , welfare, Evolution of administrative as the fourth branch of government-necessity for delegation of powers on administrative, Evolution of agencies and procedures for settlement of disputes between Individual and administration, Regulatory agencies on the United States, Conseil d'Etat, Tribunalization in England and India, Definition and scope of administrative law, Relationship between constitutional law and administrative law, Separation of powers, Rule of law.

2. CIVIL SERVICES IN INDIA

Nature and organization of civil service: from colonial relics to democratic aspiration, Powers and functions, Accountability and responsiveness: problems and perspectives, Administrative deviance-corruption, nepotism, mal administration.

3. LEGISLATIVE POWERS OF ADMINISTRATION

Necessity for delegation of legislative power, Constitutionality of delegated legislation-powers of exclusion and power to modify statute,

Requirements for the validity of delegated legislation, Consultation of affected interests and public participation in rule-making, Publication of delegated legislation, Administrative directions, circulars and policy statements, Legislative control of delegated legislation, Laying procedures and their efficacy, Committees on delegated legislation-their constitution, function and effectiveness, Hearings before legislative committees, Judicial control of delegated legislation, Sub-delegation of legislative powers.

4. JUDICIAL POWERS OF ADMINISTRATION

Need for devolution of adjudicatory authority on administration, Administrative tribunals and other adjudicating: their ad-hoc character, Tribunals- need, nature, constitution, jurisdiction and procedure, Jurisdiction of administrative tribunals and other authorities, Distinction between quasi-judicial and administrative functions, The right to hearing-essentials of hearing process, No man shall be judge in his own case, No man shall be condemned unheard, Rules of evidence-no evidence, some evidence and substantial evidence rules, Reasoned decisions, The right to counsel, Institutional decisions, Administrative appeals

5 Judicial Control of Administrative Action

Exhaustion of administrative remedies, Standing: standing for Public interest litigation (social action litigation) collusion, bias, Leches, Res judicata, Grounds- Jurisdictional error/ultra virus; Abuse and non exercise of jurisdiction; Error apparent on the face of the record, Violation of principles of natural justice, Violation of public policy, Unreasonableness, Legitimate expectation, Remedies in judicial Review: Statutory appeals, Mandamus, Certiorari, Prohibition, Quo-Warranto, Habeas Corpus, Declaratory judgments and injunctions, Specific performance and civil suits for compensation

6. Administrative Discretion

Need for administrative discretion, Administrative discretion and rule of law, Limitations on exercise of discretion, Mala-fide exercise of discretion, Constitutional imperative and use of discretionary authority, Irrelevant considerations, Non-exercise of discretionary power.

7. Liability for wrongs (tortuous and contractual)

Tortuous liability: sovereign and non-sovereign functions, Statutory immunity, Act of state, Contractual liability of government, Government

privilege in legal proceedings-state secrets, public interest, Transparency and right to information, Estoppel and waiver.

8 Corporations and Public Undertaking

State monopoly-remedies against arbitrary action or for acting against public policy, Liability of public and private corporations-department undertakings, Legislative and governmental control, Legal remedies, Accountability-Committee on Public Undertakings, Estimates Committee, etc.

9 Informal Methods of Settlement of Disputes Grievance Redressal Procedures

Conciliation and mediation through social action groups, Use of media, lobbying and public participation, Public enquiries and commissions of inquiry, Ombudsman: Lok-pal, Lok-Aayukt, Vigilance Commission, Congressional and Parliamentary Committees.
