

NEW SYLLABUS

521

Roll No.

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 11

NOTE : Answer **ALL** Questions.

1. (a) The distribution of powers is an essential feature of federalism. The object for which a federal State is formed involves a division of authority between the National Government and the separate States. The tendency of federalism to limit the actions of the Government and to split up the strength of the States, is specially noticeable, because it forms the essential distinction between a federal system and a unitary system of Government. A Federal Constitution establishes the dual polity with the Union at the Centre and the States at a periphery, each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution. That one is not subordinate to the other in its own field, the authority of one is to co-ordinate with that of the other. In fact, the basic principle of federalism is that the legislative, executive and financial authority is divided between the Centre and States, not by any law passed by the Centre but by the Constitution itself. This is what Indian Constitution does.

The Constitution of India makes two-fold distribution of legislative powers—(1) with respect to territory; and (2) with respect to subject matter.

As regards territory, Article 245(1) provides that subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India. According to clause (2) of Article 245, a law made by Parliament shall not be deemed to be invalid on the ground that it has extra-territorial operation, i.e., takes effect outside the territory of India.

Our Constitution-makers have followed the Canadian scheme opting for a strong Centre. However, they added one more List—the Concurrent List. The Government of India Act, 1935, introduced a scheme of three-fold enumeration, viz., Federal, Provincial and Concurrent.

The present Constitution adopts the method followed by the Government of India Act, 1935, and divides the powers between the Union and the States in three Lists—Union List, the State List and the Concurrent List.

Article 246 is related to subject-matter of law-making power of Parliament and State Legislatures. Parliament has exclusive power to make laws with respect to any of the matters enumerated in List-I in the Seventh Schedule. Parliament, subject to clause (1) and Legislature to any State, have power to make laws with respect to any of the matters enumerated in List-III in the Seventh Schedule. Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule. However, our Constitution makes a few exceptions to this general rule by authorising Parliament to make law even on the subjects enumerated in the State List.

: 3 :

As it is seen that the powers between the Centre and States are divided and they cannot make laws outside their allotted subjects. It is also true that a scientific division is not possible and questions constantly arise whether a particular subject falls in the sphere of one or the other government. This duty in the federal Constitution is vested in the Supreme Court of India. The Supreme Court has evolved various principles of interpretation in order to determine the respective power of the Union and the States under the three Lists.

In reference to the above statements answer the following questions :

- (i) 'It is almost a universal rule in all the Constitutions, where distribution of legislative powers is provided, that in the concurrent field the Central law prevails, if it conflicts with a State law.' However, our Constitution recognizes an exception to this general or universal rule. Discuss.

(2 marks)

- (ii) A newspaper was published and printed at Bangalore in Karnataka State. It contained crossword puzzles and engaged in prize competitions. It had wide circulation in the State of Maharashtra and most of its activities such as the standing invitations, the filling up of the forms and the payment of money took place within that State. The State of Maharashtra imposed a tax on the newspaper. The publishers challenged the validity of the law on the ground that it was invalid in so far as it covered a subject matter falling beyond the territory of that State, because the paper was published in another State. Discuss the validity of the actions of the State of Maharashtra referring to the case law.

(2 marks)

- (iii) On a particular item included in the State List, the States of Haryana and Rajasthan requested the Parliament to make laws for them on that particular subject. Discuss the legality of this statement referring to the relevant Article of the Constitution of India. What happens, if any of the consenting States later makes a law on that particular subject.

(2 marks)

- (iv) Discuss the principle of harmonious construction in the interpretation of legislative lists under the Indian Constitution.

(2 marks)

- (v) If it is necessary or expedient in the national interest that Parliament should make a law on a matter enumerated in the State List, can Parliament do so ? Explain.

(2 marks)

- (b) Shyam Jewels, one of Mumbai's biggest jewelry stores, contract with Gold leaf Wholesalers in electronic form. Gold leaf specializes in High-quality Gold and Diamond Jewelry. Under the contract, the gold leaf was supposed to provide jewelry amounting to ₹ 25 lakh on credit to Shyam Jewels, with payment due in 90 days. To fulfill this financial obligation, X, the friend of owner of Shyam Jewels, signed a personal guarantee and Y, business partner of Shyam Jewels secured the transaction with a lien on his expensive car. Upon receiving the consignment, Shyam Jewels defaulted on its payment obligations within the stipulated period. Despite multiple legal notices, the payment remained due, which entitles the aggrieved party to compensation for loss or damage caused by this act.

: 5 :

As X had provided a personal guarantee, Gold Leaf Wholesalers initiated recovery proceedings against him. There is an agreement in which a surety undertakes liability in the event of the principal debtor's default.

Y's luxury car had been pledged as security for the debt. Upon default, Gold Leaf exercised its statutory right, which empowers the Gold Leaf to sell the pledged goods after providing reasonable notice to the Y. The proceeds from the sale were appropriated towards the outstanding liability.

During the course of legal proceedings, it was ascertained that Shyam Jewels had engaged A, as an agent to procure jewelry from Gold Leaf.

The commercial transaction between Shyam Jewels and Gold Leaf falls within the ambit of the Sale of Goods Act, 1930, as it involved the transfer of ownership of goods in exchange for monetary consideration.

In view of the above details, answer the following questions with reasons :

(i) Discuss the liability of X, as a guarantor.

(2 marks)

(ii) Can Gold Leaf sell the luxury car of Y and appropriate the proceeds toward the outstanding liability ? Discuss the rights of a pawnee.

(3 marks)

(iii) Under which provisions of the Sale of Goods Act, 1930, Gold Leaf can initiate legal actions for recovery of price and damages ?

(2 marks)

(iv) Under what circumstances an agent can be held personally liable ?

(3 marks)

2. (a) Anand could not clear his Civil Services interview, yet he falsely pretended that he had cleared it. He intentionally deceived Param and dishonestly induced him to provide goods on credit, despite having no intention to pay for them. Discuss the offence committed by Anand under the Bharatiya Nyaya Sanhita, 2023.

(5 marks)

- (b) Ram filed a suit for recovery of certain sum against Raj who was a minor. Later, an ex-parte decree was passed against Raj. In execution of decree, the house of Raj was sold to Prabhu and sale certificate was also issued in favour of Prabhu. However, Raj continued living in the house and later on died, leaving no legal heir, and the property by escheat, passed to the State. Prabhu filed for possession of the house. Discuss the legality of Prabhu's claim to the possession of the house.

(5 marks)

- (c) Aman contracts to sell to Bharat, 50 bighas of land situated in his village, for ₹ 1,00,000. It, however, turned out that only 25 bighas of land belonged to Aman. Here 25 bighas are substantial part of the contract. The general principle under Section 12 of the Specific Relief Act, 1963 is that, except as otherwise hereinafter provided in this section, the Court shall not direct the specific performance, then what are the reliefs available to the parties of this contract ? Discuss.

(5 marks)

3. (a) Rakesh entered into a bond with a company to serve for a period of five years. As per the terms of the bond, if Rakesh leaves the job earlier, and joins a competitor within five years, he would be liable to pay damage. After receiving necessary training, Rakesh left the job within the stipulated period and joined a competitor. The former employer filed a suit for damages against him. Is this agreement valid under the Indian Contract Act, 1872 ? Discuss.
- (5 marks)
- (b) Neelam had a property situated in Prayagraj. She was in urgent need of money for business purposes and therefore approached the creditor, showed her documents and borrowed money. She delivered the title deed in the city of Lucknow. Is this a valid mortgage ? Discuss in detail the requisites for this kind of mortgage.
- (5 marks)
- (c) Neeresh draws a cheque of ₹ 50,000 on his own account payable to Gukesh, but he only has ₹ 20,000 in his account. Gukesh presents the same to the bank with in the time allowed. Cheque got bounced due to insufficiency of funds in Neeresh's account. Discuss the remedy available to Gukesh under the Negotiable Instruments Act, 1881, and what are the requirements which have to be complied with under section 138 of the said Act, before initiating action.

(5 marks)

Attempt all parts of either Q. No. 4 or Q. No. 4A

4. (a) A is accused of forging B's signature on a gift deed of property. The prosecution relies on the opinion of a handwriting expert, who confirms that the signature is forged. Discuss the relevancy of the opinion of a handwriting expert under the Bharatiya Sakshya Adhiniyam, 2023.

(5 marks)

- (b) Raj has been wrongfully detained in custody by Yogesh, a police officer. What remedy is available to Raj's family in such a case under Indian Constitution ? Discuss.

(5 marks)

- (c) Sohan Singh, aged sixty-two, was working as an Information Commissioner. In the midst of his tenure, after serving one year as an Information Commissioner, he was appointed as the Chief Information Commissioner. Discuss in detail, whether he can be appointed as the Chief Information Commissioner, and explain the terms of office of the Central Information Commission under the Right to Information Act, 2005.

(5 marks)

OR (Alternate question to Q. No. 4)

- 4A. (i) "The court have always insisted that the administrative agencies must follow minimum of fair procedure, i.e., Principal of Natural Justice". Under what circumstances can the right to a fair hearing and the rule against bias be lawfully excluded ?

(5 marks)

- (ii) What powers does the Collector have to stamp impounded instruments under the Indian Stamp Act, 1899 ? Discuss the procedure involved and legal implications of such stamping.

(5 marks)

- (iii) "A party may, before or during arbitral proceedings, or at any time after the making of the arbitral award but before its enforcement under Section 36, apply to the court for interim measures under Section 9(1) of the Arbitration and Conciliation Act, 1996." Discuss.

(5 marks)

5. (a) Discuss the effect of repeal under the General Clauses Act, 1897. The Bharatiya Nyaya Sanhita (BNS), 2023, which came into effect on July 1, 2024, repealed the Indian Penal Code (IPC), 1860, as the primary criminal law in India. What is the legal consequence of offences committed under the IPC, before July 1, 2024 ?

(5 marks)

- (b) What is meant by a summons under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 ? Discuss the provisions relating to the service of summons on corporate bodies, firms, and societies.

(5 marks)

- (c) A person was accused of theft involving stolen property valued at less than five thousand rupees. He was a first-time offender, and the property was recovered. Discuss the punishment prescribed for such an offence under the Bharatiya Nyaya Sanhita, 2023. What other offences are covered under this type of punishment ?

(5 marks)

Attempt all parts of either Q. No. 6 or Q. No. 6A

6. (a) Anil inspects a hot water bottle at a chemist's shop and enquires whether it will stand boiling water. Anil was told that it will stand hot water but not boiling water and then he buys it. The moment Anil puts hot water into the bottle, it bursts causing him an injury. Discuss with the help of relevant provisions whether Anil has any remedy against the chemist ?

(5 marks)

- (b) Aamir the owner of a boat, contracts with Bhavesh to take a cargo of jute to Aligarh for sale at that place, starting on a specified day. The boat owing to some unfortunate reasons, could not start at the time appointed, and hence the arrival of the cargo at Aligarh is delayed beyond the specified contracted time. After that date and before the arrival of the cargo, the price of the jute falls. Discuss in detail the remedy available to Bhavesh.

(5 marks)

- (c) Ahmed, Raheem, and Sameer were joint-owners of a truck, and possession of the said truck was with Raheem. Sudhir purchased the truck from Raheem without knowing that Ahmed and Sameer were also co-owners of the truck. Will Sudhir get a good title ? Discuss in the light of the provisions of the Sale of Goods Act, 1930.

(5 marks)

- (d) The defendants were a partnership firm consisting of two partners, Ramesh and Mahesh. Ramesh was taking care of the functioning of the firm and Mahesh was a sleeping partner. Ramesh acting within the scope of his authority, bribed the clerk of the plaintiff's company and induced him to commit a breach of contract with the plaintiff and divulge some of the secret important information of the plaintiff's company. The plaintiff suffered losses. This act of Ramesh was done without Mahesh's knowledge. Plaintiff sued both the partners. Discuss whether the plaintiff would succeed.

(5 marks)

OR (Alternate question to Q. No. 6)

- 6.A. (i) "Law is a theory of social engineering, which means balance between the competing interests in society." Discuss Roscoe Pound's classification of interests.
(5 marks)
- (ii) Discuss the doctrine of sufficient cause under the Limitation Act, 1963.
(5 marks)
- (iii) "An information provider is a person, who provides information to a body corporate and, under these rules, has certain rights over sensitive personal information. Such information cannot be collected without the provider's consent." What restrictions do the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011—commonly known as the SPDI Rules—place on body corporates to protect individuals' privacy ?
(5 marks)
- (iv) Discuss the grounds on which a party, against whom a foreign award is invoked, may oppose its enforcement under Section 48 of the Arbitration and Conciliation Act, 1996.
(5 marks)