


Name:			
Enrolment No:			
<b>UPES</b> <b>End Semester Examination, May 2023</b>			
<b>Course: Constitutional Law II</b> <b>Program: B.A. / B.B.A. / B.Com LLB. (Hons.)</b> <b>Course Code: CLCC2005</b>		<b>Semester: IV</b> <b>Time: 03 hrs.</b> <b>Max. Marks: 100</b>	
<b>Instructions: Students are requested to attempt all the questions.</b> <b>Justify all answers with appropriate authorities.</b>			
<b>SECTION A</b> <b>(5Qx2M=10Marks)</b>			
S. No.	Explain the following	Marks	CO
Q 1	Municipality	2	CO1
Q 2	Appointment of Vice-President of India	2	CO1
Q 3	Obiter Dicta	2	CO1
Q 4	Residuary power of legislation.	2	CO1
Q 5	Prospective Overruling	2	CO1
<b>SECTION B</b> <b>(4Qx5M= 20 Marks)</b>			
Q 6	Comment on the Criminal Appellate Jurisdiction of the Supreme Court of India	5	CO2
Q 7	Write a note on the 'Comptroller and Auditor General of India'.	5	CO2
Q 8	Elaborate the Function of Finance Commission constituted under the Indian Constitution.	5	CO2
Q 9	Briefly comment on the freedom of trade, commerce and Intercourse throughout the territory of India. List the limitations.	5	CO2
<b>SECTION-C</b> <b>(2Qx10M=20 Marks)</b>			
Q 10	The state emergency has become a tool to reinforce the political agenda of the ruling party at the center. Analyze the misuse of the state emergency under Art 352 with the help of relevant case laws.	10	CO3
Q 11	Analyze the Doctrine of Territorial Nexus.	10	CO3
<b>SECTION-D</b> <b>(2Qx25M=50 Marks)</b>			

Q 12	<p>In 2023, the Parliament recognizing the phenomenal increase in the price of petrol due to Russia Ukraine War. For stabilizing the price passed the Petrol Price Stabilizing Price Act, 2023 ["PPSP Act"]. Under the PPSP Act, the Parliament authorized the Union Government to fix the price of the petrol and can revise it after regular intervals. Aggrieved by the Act, private Oil Marketing Companies filed a suit against the Union of India declaring that the Parliament law is arbitrary and against the private oil marketing companies.</p> <p>In the meantime Parliament passes the 106th Amendment to the Indian Constitution by which the PPSP Act was added to the 9th Schedule of the Constitution .The Parliament also inserted Article 31E to the Constitution of India by the Constitution 106th Amendment. Article 31 E provided as under: -          "Notwithstanding anything contained in the Constitution of India, no law providing for the fixing the price of petrol under the Petrol Price Stablising Act 2023 shall be called in question in any Court on the ground that the price is discriminatory ."</p> <p>Various petitions were filed under Article 32 of the Constitution of India by the persons whose equipment were acquired under the PPSP Act challenging the constitutional validity of Constitution 106th Amendment.</p> <p>The Supreme Court has clubbed all the petitions. The Court has framed the following questions: -</p> <p>What is the process of amending the Constitution under Art 368?          Whether Constitution provides mechanism to amend the Constitution apart from the Art.368? 5 Marks</p> <p>Whether Amendment is Law for the purpose of Art. 13 of the Constitution of India? 5 marks</p> <p>Whether the Constitution 106th Amendment , which restricts the power of judicial review of the Court violates the doctrine of Basic Structure of the Constitution? 10 Marks</p> <p>Whether the Hon'ble Supreme Court can judicially review the PPSP Act 2023 which is now placed under the 9th Schedule? 5 Marks</p>	25	CO4
Q 13	Kuntal is a state situated in the western region of India. It is one of the fastest growing State in terms of industrial infrastructure and human	25	CO4

resources. The State is becoming one of the most influential players in the 'Made in India' electronic market. In the year 2017, in the State elections, Bahubali Janta Party came into power, and Mr Mahendra Bahubali became the Chief Minister.

In the year 2019, Parliament passes the Citizenship Amendment Act, 2019 which provides a separate way of getting citizenship of India to the minorities migrated from Pakistan, Bangladesh and Afghanistan.

The Kuntal State Government, however, decided not to implement the Citizenship Amendment Act, 2019 on the ground that it is discriminatory in nature and it violates Art 14 and Art 21 of the Constitution of India..

The Central Government cautioned the State Government to implement the law. However, the State Government did not adhere to the advice of the Central Government. The Central Government severely criticised the action of the State Government, and a stern warning was given.

The President sought a detailed report from the Governor in this regard. While the Governor was preparing his report, on 21st May 2020 the President on being satisfied that a situation had arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution issued a proclamation under Article 356 of the Constitution of India. The aid and advice tendered by the Council of Ministers to the President was based on the information and reports published by the Media . The President also dissolved the legislative assembly of the State and directed the Governor to manage the affairs of the State.

On 5th June 2020, 10 MLA of the dissolved assembly challenged the Proclamation issued by the President, under Article 32 of the Constitution of India as being mala fide, disproportionate and unconstitutional. You appear for the 10 MLA, and the Hon'ble Supreme Court has sought your response on the following legal issues: -

a) Briefly explain the different forms of emergencies provided under the Constitution of India. Also, highlight the difference between the legal position pre and post the 44th Amendment to the Constitution of India. The submissions on this question should be strictly legal and uninfluenced by facts of this case. 10

Marks

b) Whether the Hon'ble Supreme Court can exercise its power of judicial review on the exercise of power by the President under Article 356 of the Constitution of India? What is the extent of judicial review

	<p>permissible under the law? Please highlight the relevant case laws in this regard. 10 Marks</p> <p>c) Whether the Proclamation issued by the President was constitutional and valid under Article 356 of the Constitution of India? Whether the Hon'ble Supreme Court can set aside the Proclamation issued by the President? 5 Marks</p> <p>You are expected to answer all question along with relevant provisions and case laws briefly.</p>		
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