

SUPREME COURT OF INDIA
ADVOCATES ON RECORD EXAMINATION - DECEMBER 2004
Paper IV- Leading Cases

TIME: THREE HOURS TOTAL MARKS: 100

Note: Answer Question No: I and any four out of the remaining questions. All questions carry equal marks. Avoid lengthy answers and write legibly.

Q. 1. Write short notes on any four of the following:

- (i) ADM Jabalpur vs. S. Shukla
1976 (Suppl.) SCR. 172; 1976 (2) SCC 521; AIR 1976 S.C. 1207
Re Fundamental Rights during Emergency
- (ii) State of West Bengal vs. Anwar Ali Sarkar
1952 SCR 284; AIR 1952 S.C. 75
Tests of Equality
- (iii) In re Special Courts Bill 1978
1979 (2) SCR 476
Opinion rendered by Supreme Court in advisory jurisdiction: whether binding or not?
- (iv) India Cement Vs. State of Tamil Nadu
1989 (Suppl.) SCR. 692; 1990 (1) SCC 12
What is Royalty? Can cess be levied on Royalty?
- (v) In re Berubari 1960 (3) SCR 250
Is legislative action necessary for the implementation of an agreement by the Government of India ceding any part of the territory of India?
- (vi) In re Kerala Education Bill
1959 SCR 995 - rights of minorities under Article 29 and 30.

(vii) The Commissioner, Hindu Religions Endowments vs. Sri Lakshmindra Tirtha Swammiar of Shirur Mutt
1954 SCR 1005 = AIR 1954 S.C. 282 Distinction between Tax and Fee.

(viii) In Re Keshav Singh 1965 (1) SCR413
Re Legislative Privileges vis-a-vis Judiciary

Q.2 Discuss briefly:

- (a) The nature of the Indian Federal structure?
- (b) What is the doctrine of collective responsibility of Ministers to Parliament/and to State Legislatures?
- (c) What is the doctrine of separation of powers?

Q.3 The power to amend the Constitution is not the power to destroy - Explain this briefly in the light of Kesavananda Bharti vs. State of Kerala (1973) Suppl. SCR 1

Q.4 Set out the ratio in the case of Maneka Gandhi vs. Union of India 1978 (2) SCR 621: why is this a land mark decision?

Q.5 What is a “creamy layer”? Explain the concept in the light of Indira Sawhney vs. UOI 1992 (Suppl.3) SCC 217

Q.6 What is the ratio of the decision of the nine Judge Bench in Mafatlal Industries vs. UOI 1997 (5) SCC 536?

Q.7 Price fixation is legislative in character because it satisfies the tests of legislation: how far is it justiciable?
Discuss in the light of Prag Ice and Oil Mills vs. UOI 1978 (3) SCR 29

Q.8 Discuss the constitutional scope and ambit of the power of President under Article 356(1) regarding dissolution of State Legislative Assemblies.'

Q. 9 What is the scope of the power conferred by Article 142 of the Constitution?

Q.10 Where the Home Minister of the Union of India advises the Chief Minister of a State to recommend to the Governor of the State to dissolve the State Legislative Assembly under Article 174(2)(b) of the Constitution, what are constitutional rights and obligations of the constitutional authorities concerned? Discuss-with particular reference to the decision of the seven Judge Bench in State of Rajasthan vs. Union of India 1978 (1) SCR 1; AIR 1977 S.C. 1364.

SUPREME COURT OF INDIA

ADVOCATES ON RECORD EXAMINATION - JUNE 2005

PAPER IV: LEADING CASES

TIME: 3 HOURS

TOTAL MARKS: 100

NOTE: Please answer any/ four out of Questions 1 to 7. Each question carries 20 marks.

Please answer any two out of the four sub-questions in Question 8. Each sub-question carries 10 marks.

- Question 1: Re: Synthetics and Chemicals Limited vs. State of UP, [1989] Suppl 1 SCR 623: Please discuss the scope and ambit of the doctrine of 'police powers' and its applicability in the Indian context. What was the contention of the State with regard to the applicability of the doctrine to facts of the case and how did the Court address the issue?
- Question 2: The West Bengal Special Courts Act, 1950 and the Saurashtra State Public Safety {Third Amendment} Ordinance, 1949 - both provided for special courts to try special classes of offences. Under both statutes, the special courts were empowered to try such offences or classes of offences or such cases or classes of cases as the Government may, by general or special order, in writing, direct. In State of West Bengal vs. Anwar Ali Sarkar, [1952] SCR 284, the Supreme Court struck down the West Bengal Act as violative of Article 14. However, in Kathi Raining Rawat vs. State of Saurashtra, [1952] SCR 435, the Saurashtra Ordinance was upheld. Please enumerate and discuss the point (s) of distinction between the two cases/laws and the reasons why the Supreme Court came to such differing conclusions.
- Question 3: Re: A. R. Antulay vs. R. S. Nayak, [1988] Suppl. 1 SCR 1:
Please set out and discuss the point of divergence between Justice Mukherji and Justice Venkatachaliah on the doctrine of '*per incuriam*' and its applicability in the AR Antulay case. What according to the learned judges was the effect of a *per incuriam* decision? Please also discuss the nature of power exercised by a court when correcting a direction *per incuriam*. Is it the exercise of the power of review?
- Question 4: Please enumerate and discuss the distinction between the jurisdiction of and powers exercisable by tribunals created under Article 323 A and 323 B of the Constitution vis-S-vis that of High Courts, as outlined in L. Chandra Kumar vs. Union of India, [1997] 2 SCR 1186. Please explain the rationale behind the court's conclusion that administrative tribunals ought to be empowered to test the validity of legislations against the provisions of the Constitution.

Does this power extend to testing the *vires* of the statute under which the tribunal has been created? If no, why not?

Question 5: Please set out and discuss the principles and important methods relating to determination of compensation and valuation of properties for the purposes of determining the compensation payable for compulsory acquisition of an undertaking, as enumerated by the Supreme Court in RC Cooper vs. Union of India, [1970] 3 SCR 530. What were the major infirmities in the method proposed under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969 that impelled the Supreme Court to strike down this law?

Question 6: Please enumerate and discuss the divergent views between the majority view of Justice Gajendragadkar and the minority view of Justice Hidayatullah in Naresh Mirajkar vs. State of Maharashtra, [1966] 3 SCR 744, on the issue of whether a petition under Article 32 will lie against a Judge in respect of any action performed by him while in the seat of justice. Please contrast and discuss the majority view on this issue in the Naresh Mirajkar case with the majority view on this issue in the AR Antulay case.

Question 7: The legislative assembly of a State commits one Keshav Singh to prison for its contempt. While undergoing imprisonment, Keshav Singh moves the High Court through an advocate under Article 226 challenging his committal as being in breach of his fundamental rights and also praying for bail. The High Court issues notice to the all respondents, including the Legislative Assembly. Due to non-appearance of any respondents, the High Court directs release of Keshav Singh on bail. The Legislative Assembly finds that Keshav Singh and his advocate in moving the High Court, and the judges of the High Court in granting bail, had committed contempt of the assembly and pass a resolution that they be produced before it in custody. Did Keshav Singh, his advocate, or the judges commit contempt of the Legislative Assembly? Please discuss with particular reference to the scope and extent of fundamental rights and their protection, the rights of an advocate and the scope and nature of judicial functions vis-S-vis the privileges of a Legislative Assembly. Would the President of India be within his rights to make a reference under Article 143(1) and seek the opinion of the Supreme Court on the important issues arising out of this case even though the matters may not directly relate to his powers and duties under the Constitution?

Question 8: Please write short notes in response to any two of the following sub-questions:

Q. 8(a): Commissioner, Hindu Religious Endowments, Madras vs. Sri Lakshmindra Thirta Swamiar of Sri Shirur Mutt, [1954] SCR 130: Distinction between a tax and a fee. A State Government, being empowered and required to regulate denatured spirits to prevent them from being converted to use for human

consumption, makes rules providing for a license for denaturation of spirit in a prescribed form to be issued by Collector to all distilleries. The Government also levies a charge at the rate of 7 paise per litre in advance. Is this a tax? A fee?

- Q. 8(b):** SP Gupta vs. Union of India, [1982] 2 SCR 365: Scope and extent of the concept of *locus standi* and the broad principles enunciated by the Supreme Court in this case. Does the fact that a petitioner's *locus standi* is conceded have any bearing on the issue of 'justiciability'? Please elaborate.
- Q. 8(c):** Article 16(4) empowers the State to make 'provision' for the reservation of appointments or posts in favour of any backward class of citizens under certain circumstances. Is not this 'provision' to be mandatorily made only by Parliament/legislature? Can the State, by executive instructions, make these provisions? Are there any circumstances when this may not be done? Please discuss.
- Q. 8(d):** What is the difference between constitutional law and ordinary law, as enunciated in Indira Gandhi vs. Raj Narain, [1976] 2 SCR 347

SUPREME COURT OF INDIA

Advocate-on-Record Examination - June 2006

Paper -IV LEADING CASES

TIME : Three hours

Total Marks : 100

INSTRUCTIONS

1. Answer briefly any five questions.
2. All questions carry equal marks.
3. Please write legibly.

- Q. 1. Which Articles of the Constitution of India confer upon citizens the right to establish and administer educational institutions? What is the difference between aided and unaided educational institutions with regard to management thereof? Discuss with reference to the Judgment in TMA Pai Foundation Vs. State of Karnataka: (2002) Suppl 3 SCR 587.
- Q.2. Under what circumstances can the President of India seek the opinion of the Supreme Court? What is the binding nature of such opinion? Discuss with reference to decided cases under Article 143 of the Constitution of India?
- Q.3. Can an Administrative Tribunal be set up under Article 323 A or 323 B of the Constitution of India so as to exclude the jurisdiction of High Courts under Article 226? Discuss with reference to the case of L. Chandra Kumar Vs. Union of India: (1997) 2 SCR 1186.
- Q.4. What is the scope and extent of the powers of the State Legislature to impose taxes on lands and buildings? Discuss with reference to the Judgment in the State of West Bengal Vs. Keshorani Industries Ltd: (2004) 1 SCR 564.
- Q.5. What are the principles enunciated in the case of Vishaka Vs. State of Rajasthan: (1997) Suppl 3 SCR 404?
- Q.6. What is the impact of the principles laid down in the case of S.P. Gupta Vs. Union of India : (1982) 2 SCR 365 on the jurisdiction of High Courts and the Supreme Court of India to deal with Public Interest Litigations? Discuss.
- Q.7. What is a “Curative Petition”? Under what circumstances and subject to what limitations can it be entertained?

SUPREME COURT OF INDIA
Advocate -on-Record Examination - June 2007
PAPER-IV LEADING CASES

TIME: Three hours

Total Marks: 100

INSTRUCTION

- 1.** Answer briefly any four questions.
- 2.** All questions carry equal marks.

Q. 1 What is a creamy layer in the context of Article 16(4), under Article 335. Its Constitutionality and scope. Indra Sawhney and others Vs. Union of India and others 1992 supp (3) SCC 217, M.Nagaraj and other Vs. Union of India 2006 (8) SCC 212.

Q. 2 What are essential principles of Judicial Review, its scope, Wednesbury unreasonableness how applicable. Tata Cellular Vs. Union of India 1994 (6) SCC 651. Jayrajbhai Jayantibhai Patel Vs. Anilbhjai Nathubhai Patel and others 2006 (8) SCC 200

Q. 3 The different fundamental rights conferred under Part III of the Constitution are not isolated rights but constitute an amalgam of rights which together guarantee freedom and democracy. Discuss this proposition in the light of the judgment of the Supreme Court in Rustom Covasjee Cooper Vs. Union of India- 1970(1)SCC 248.

Q. 4 Electoral Reform - Power of the Supreme Court to provide a format and give directions for candidates to fill up in nomination forms. Can Parliament pass law

to directly set aside the decision of the court. Distinction between amending the law in view of the decision to make it inoperative and directly seek to nullify the effect of the decision. People's Union for civil liberties (PUCL) and Another Vs. Union of India and Another 2003 (4) SCC 399,=2003 (2) SCR 1136

Q. 5 What are the basic facts and ratio of Mafatlal Industries Vs. Union of India 1996 Suppl (10) SCR585' 1997 (5) SCC 536 ?

Q. 6. Discuss the constitutional scope and ambit of the power of President under Article 356(1) regarding dissolution of State Legislative Assemblies.

Q. 7. Constitution of India - Arts. 19(1)(g),30(1),41 and 51-A(h) & (j)— Professional unaided (minority and non-minority)educational institutions -Obligations of-Admission procedure and fee structure permissible—PA Inamdar Vs. State of Maharashtra-2005 (6) SCC 537

SUPREME COURT OF INDIA

ADVOCATES ON RECORD EXAMINATION - JUNE 2008

PAPER IV: LEADING CASES

TIME: 3 HOURS

TOTAL MARKS: 100

NOTE : Please answer any four out of Questions 1 to 8. Each question carries 20 marks.

Please answer any two out of the four sub-questions in Question 9. Each Sub question carries 10 marks.

Question 1: International Agreements or Conventions do not automatically become part of the Domestic Law. Article 253 of the Constitution confers power on Parliament to make laws for implementing international treaties, agreements or conventions. Examine the scope of the power of courts to invoke international conventions to resolve domestic law issues, in the light of the judgement of the Supreme Court in Vishakha and Others v. State of Rajasthan and Others, (1997) Supp 3 SCR 404.

Question 2: No judicial order can be said to affect the Fundamental Rights of citizens. Can Article 32 of the Constitution be read restrictively to make any distinction between judicial orders and other orders or decisions particularly when occasion may arise collaterally where the matter may be between the judge and the fundamental rights of any person by reason of judicial action?

Critically examine the above proposition with respect to Naresh Sridhar Mirajkar and Others v. State of Maharashtra and Another, (1966) 3 SCR 744 and Rupa Ashokpwe v. Ashokpwe and Another, (2002) 2 SCR 1006.

Question 3 : Examine the relevance of prospective overruling in the light of the proposition, "Prospective overruling despite the terminology, is only recognition of the principle that the court moulds the relief claim to meet the justice of the case-justice not in its logical but in its equitable sense? [M/s Somaiya Organics (India) Ltd v. State of Uttar Pradesh and Another, (2001) 3 SCR 33; Orissa Cements Ltd v. State of Orissa, (1991) 2 SCR 105; and Managing Director, ECIL v. B. Karunakar, (1993) 4 SCC 727].

How far is it appropriate to locate the source of power of prospective declaration of invalidity of a law to Article 142 of the Constitution?

SUPREME COURT OF INDIA

Advocate -on-Record Examination – June 2009

PAPER-IV LEADING CASES

TIME: Three hours

Total Marks :100

INSTRUCTION

1. Answer any four questions.
2. All questions carry equal marks

Q. 1 Discuss briefly:

- (a) The nature of the Indian Federal structure?
- (b) What is the doctrine of collective responsibility of Ministers to Parliament/and to State Legislatures?
- (c) What is the doctrine of separation of powers?

Q.2 Constitution of India - Arts. 19(1)(g), 30(1), 41 and 51-A (h) & (i) - Professional unaided (minority and non-minority) educational ' institutions - Obligations of - Admission procedure and fee structure permissible - PA Inamdar Vs. State of Maharashtra - 2005 (6) SCC 237 .

Q.3 What is a "Curative Petition" ? Under what circumstances and subject to what limitations can it be entertained?

Q.4 What is a creamy layer In the context of Article 16(4), under Article 335. Its Constitutionality and scope. Indra Sawhney and others Vs. Union of India and others 1992 supp(3) SCC 217 , M. Nagaraj and other Vs. Union of India 2006 (8) SCC 212.

Q.5 What is the scope of the power conferred by' Article 142 of the Constitution?

Q.6 Please enumerate and discuss the distinction between the 'jurisdiction of and powers exercisable by tribunals created Under Article 323 A and 323 B of the Constitution vis-a-vis that of High Courts, as outlined in L. Chandra Kumar Vs, Union of India , 1997 (2) SCR 1186. Please explain the rationale behind the court's conclusion that administrative tribunals ought to be empowered to test the validity of legislations against the provisions of the Constitution. Does this power extend to tasting the vires of the statute under which the tribunal has been created? If no, why not?

Q.7 Under what circumstances can the President of India seek the opinion of the Supreme Court? What is the binding nature of such opinion? Discuss with reference to decided cases under Article 143 of the Constitution of India. ?