



STRIKE RATE

IN CHHATTISGARH 2020 PRELIMS PAPER

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TRUE LEARNING

Q.1) Which of the following is an essential part of ‘Rule of Law' and ‘Independence of Judiciary’?

a) Judicial Review
b) Impartial appointment of Judges
c) Impeachment
d) Original Jurisdiction of Supreme Court

Ans: A

Source: Edzorb Law QBank- Constitution- Unit IV- Q 6

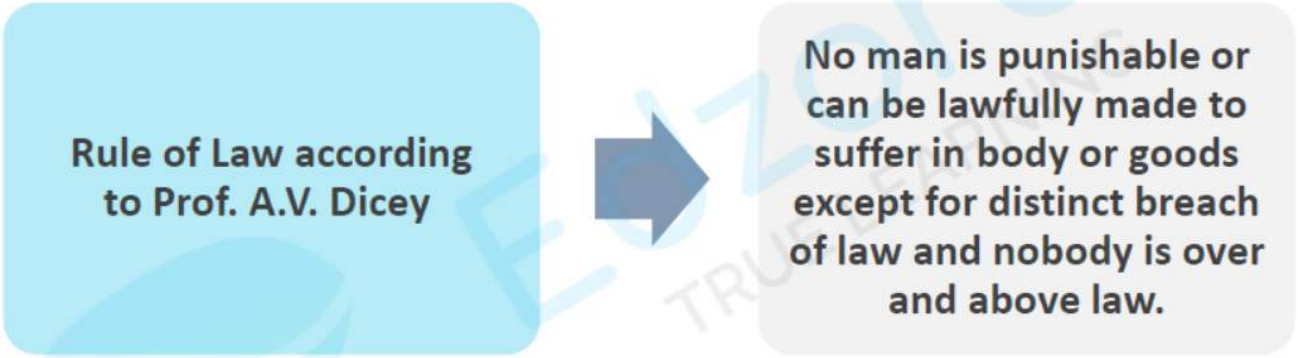
6. MCQ, Single Correct Question

Which of the following is an essential part of rule of law and independence of judiciary?

a Judicial review
b Impartial appointment of judges
c Impeachment
d Original jurisdiction

Explanation:

(A)



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The democratic government has 3 organs:

- Legislature: Power to make law
- Executive: Power to enforce Law
- Judiciary: Interprets the law and ensures that the law is in consonance with the constitution of India. This power is also known as **Judicial Review.**

Hence, the power of judicial review s necessary to save the democratic feature of the country and ensure the independence of judiciary.

Did you Know?

The principle of rule of law was propounded **by John Locke**.



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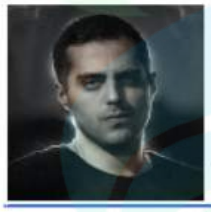
A cross with a bent tip that's the Facebook logo
New religion, clouds drip Grapefruit Yoko Ono

A clown wears the crown for years and we celebrate
Rule of law turned upside down, we tolerate

I no longer know, where we headed on this path
Pen my words, just forget it, waiting on the crash

Documenting life, I am Mr Werner Herzog
'72 Aguirre, this is the wrath of God"



--Soroosh Shahrivar, Letter 19

Soroosh is an Iranian writer and poet

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 7.
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Q.2) According to Clause 1 of Art : 25 of the Indian Constitution, the freedom of religion is subject to the interest of

a) Public order
b) Morality
c) Health
d) All of the above

Ans: D

Source: Edzorb Law QBank- Constitution- Unit IV- Q 10

10.

MCQ, Single Correct Question

According to Clause (1) of the Article 25 of the Indian Constitution, the freedom of religion is subject to the interest of

a public order
b morality
c health
d All of the above

Explanation

(D)

Article 25 (1) of the Constitution of India: **Right to religion**

*Every individual is "equally entitled to freedom of conscience" and has the right "to profess, practice and propagate religion" of one's choice. Practicing religion or the act of propagating it should not, however, affect the "**public order**, **morality** **and** **health**."*

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- **Freedom of Conscience:** It means a person has freedom to believe in the religious tenets of any sect or community.
- **Profess:** To declare freely and openly one's faith and belief.
- **Practise:** To perform the prescribed religious duties, rites and rituals and to exhibit his religious beliefs.
- **Propagate:** It means the right to communicate the person's beliefs to another person. The propogate does not include forceful conversion of someone to one's own religion.

Points to Remember

- India is a secular state i.e. it has no religion of its own and gives freedom of religion to the people of the nation.
- The word 'secular' and 'socialist' was added in the Preamble by 42nd amendment act.
- Secularism is the basic structure of the constitution. (**S. R. Bommai v. Union of India; AIR 1994 SC 1918**)

Did you Know?

42nd Amendment Act was enacted by the INC head Indira Gandhi during the emergency **1975-1977**. Due to its larger number of changes and amendments in the same act this amendment is also known as **'Mini Constitution'**.



Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1317

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Q.3) Which among the following has the power to extend the functions of the State Public Service Commission?

a) The Governor
b) The State Legislature
c) The Chief Minister
d) The Advocate General

Ans: B

Source I: Edzorb Law QBank- Constitution- Constitution 184-236- Q 23

Edzorb Law Treasure- Constitution- State Public Service Commission

16. MCQ, Single Correct Question

Which among the following has the power to extend functions of the State Public Service Commission?

a The Governor
b The State Legislator
c The Chief Minister
d The Advocate General

Explanation:

(B)

State Public Service Commission:

- Originally, they were established by **the Government of India Act, 1935.**
- Constitution gave it a status of **autonomous bodies.**

Composition	Chairman and several other members appointed by the Governor. **(Article 316 (1))**
Joint State Public Service Commission (JSPSC)	Two or more states may have JPSC. **(Article 315)** Appointment of chairman and members by the President. **(Article 316 (2))**

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Removal of members	By the President on the basis of the report of inquiry made by Supreme Court. **(Article 317)**
Power to extend functions of SPSC	State Legislature. In case of UPSC, the power lies with Parliament. **(Article 321)**
Functions	• Conducts examinations for State service. • Procedure to be followed in appointment of civil services. **(Article 323)**

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1640

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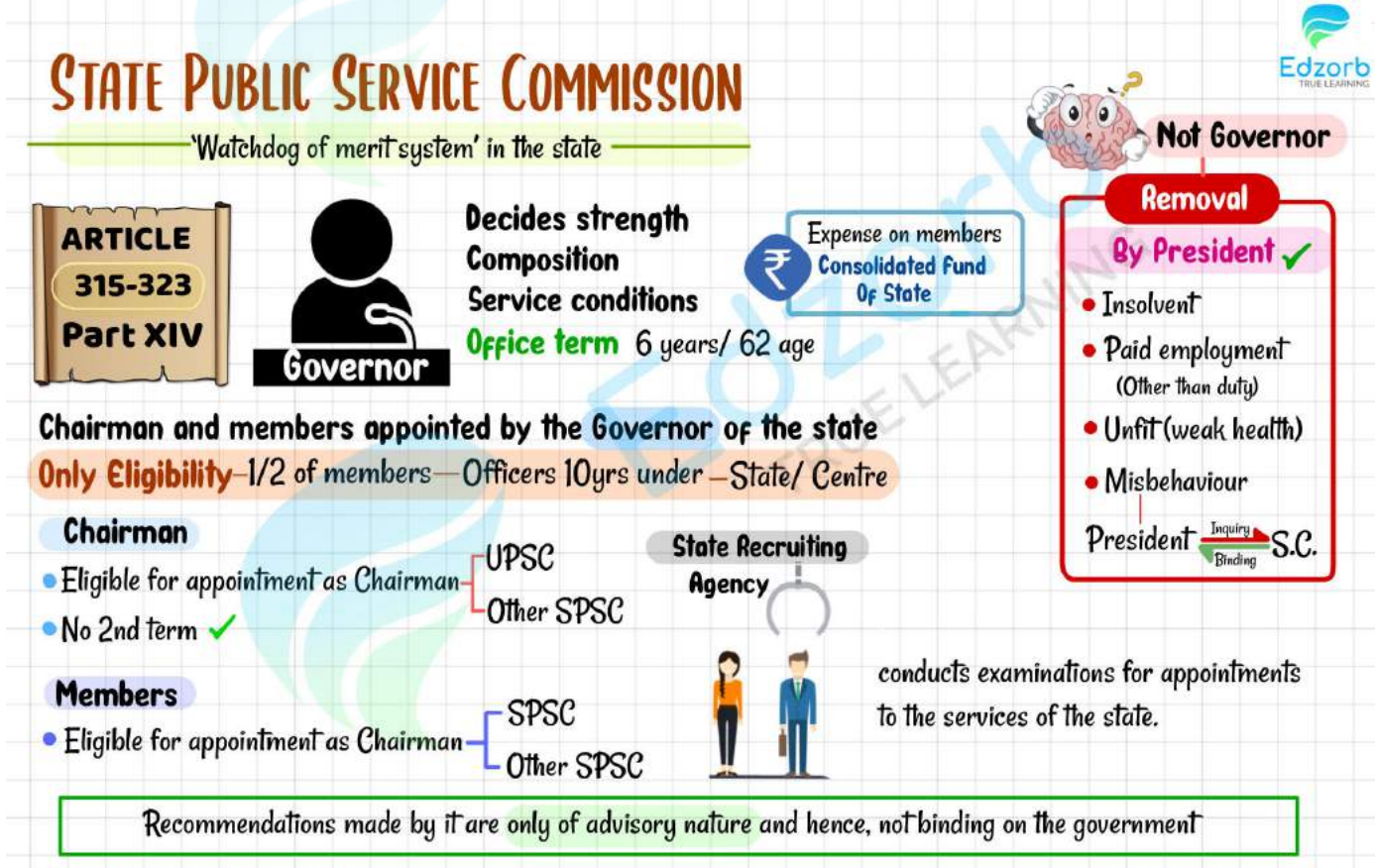

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Q.4) Which of the following Amendment Act of the Constitution provides for the appointment of one person as Governor of two or more states?

a) 2nd
b) 3rd
c) 5th
d) 7th

Ans: D

Source: Edzorb Law Treasure- Constitution- Governor

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PART VI Articles 153 to 167
State executive

GOVERNOR

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State executive

Governor

- Chief Minister
- Advocate General of State
- Council of Ministers
- No Vice-Governor

APPOINTMENT

- Neither directly elected by the people
- Nor indirectly by a specially constituted Electoral College

- Appointed by President
  (by warrant under his hand and seal)

Constituent Assembly opted – appointment of governor by the president **Canadian model**

Governor being only a **Nominal Head**

Direct election

Likely create conflict

Governor ✕ Chief Minister

Contest for governorship

CM would like his nominee

Elected Governor

Would not be
- Neutral person
- Impartial head

No point (Election)

- Elaborate arrangements
- Spending huge money

Not in national interest

Involve large number of voters

Separatist tendencies

Political instability

Presidential nomination enables the Centre to maintain its control over the states.

7TH CONSTITUTIONAL AMENDMENT ACT OF 1956

Appointment of the same person as a governor for two or more states.

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Qualifications
Citizen of India
- Completed 35 years of age

Conventions:
- Should be an outsider (different State)
- President is required to consult C.M

Oath
Administered by
- Chief Justice of State High Court (Absence)
- Seniormost Judge

Conditions
Should not be a member
- Parliament/State Legislature
- Emoluments/Allowances/Previlages determined by Parliament
- Raj Bhavan ✓

- Immune from criminal proceedings during his term of office — No arrest or imprisonment
- Civil Proceedings can be instituted against him. — 2 months after Notice

Term
5 years — Subject to the pleasure of the President. ✓

Resignation letter — President

Removal
By President
Constitution does not lay down any grounds to remove ✗

Removed by the President at any time

POWERS AND FUNCTIONS

✓ Executive Powers
- All executive actions of State govt. are formally taken in his name.

Appoints
- C.M. /Other Ministers
- Advocate General of State
- State Election Commissioner
- SPSC — Chairman, Members
- University Vice Chancellor

- Seek any information relating to the administration of affairs of the State.
- Can require C.M to submit for the consideration of the Council of ministers.
- Recommend imposition of Constitutional emergency in a state to the president.
- Acts as the Chancellor of universities in the state.

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Legislative powers

Governor is an integral part of the State Legislature.

- Summon or Prorogue Dissolve Leg. Assembly
- Decides on Disqualifications
- Promulgate ordinances (Legislature -not in session)
- Nominates 1/6th members to Leg. Council
- Give his assent / withhold / return the bill / reserve the bill
- Lays reports of CAG (relating to state), SPSC, State Finance Commission before State Legislature.

Financial powers

- Money bills - only with his recommendation
- Constitutes- Finance Commission
  - Review
    - Panchayats
    - Municipalities
- Can make advances out of Contingency fund.
- He causes to be laid before Legislature the Budget.
- Demand for a grant - only on his recommendation.

Judicial powers

- Appoints District Judges (consulting High Court)
- Pardon, Reprieve, Respite & Remission of punishment. (offence against any State law)
- Consulted by President Appointing H.C. Judges
- Appointments- State Judicial Service

CONSTITUTIONAL POSITION OF GOVERNOR

Article 154 Executive power (state) - vested in the Governor - exercised
- Directly
- Subordinate officers

Article 163 CM / Council of Ministers – Aid and advise - Governor – (except) – His discretion

Article 164 Council of Ministers – collectively responsible to the legislative assembly of the state

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Q.5) Power to constitute new states and determination of its boundaries vests in____

a) Parliament
b) President
c) Governor
d) Supreme Court of India

Ans: A

Source: Edzorb Law QBank- Constitution- Unit II- Q 20

20.

MCQ, Single Correct Question

The Constitution of India describes India as:

a A federation.
b Quasi-federal.
c A Union of States.
d None of these.

Explanation

(C)

Article 1 of the Indian Constitution describes India, that is, Bharat as a 'Union of States' rather than a 'Federation of States'.

Union of States - 28 states;

Territory of India – 28 States + 8 Union Territories + Any territory that maybe acquired.



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Article 3 authorises the Parliament to:

- **form a new state** by separation of territory from any state or by uniting two or more states,
- **Increase or decrease the area** of any state, and
- Alter the **name and boundaries** of any state.

BASIS	INDIAN MODEL	AMERICAN MODEL
Composition	**'Indestructible union of destructible states.'**	**'Indestructible Union of indestructible states.'**
Authority	**Centre** is more powerful than the State.	**States** are more powerful than the Centre.
Constitution	India has a **single** Constitution.	**Each State** has its own Constitution.

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Citizenship	Single.	Dual.
Redraw its Map	Parliament can redraw **without the consent** of the state concerned.	Parliament needs the **consent** of the State concerned.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 312, 507.

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Q.6) The words “Unity and Integrity of the Nation” were incorporated in the Preamble of The Constitution of India by which Amendment?

a) 41
b) 42
c) 43
d) 44

Ans: B

Source: Edzorb Law QBank- Constitution- Unit 6- Q 1

1.

MCQ, Single Correct Question

The word 'socialist secular' and 'unity and integrity of the Nation' were made to our Constitution by

a 42nd Amendment of the Constitution
b 44th Amendment of the Constitution
c 46th Amendment of the Constitution
d None of the above.

Explanation

A



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42ND AMENDMENT ACT, 1976

(recommendations of **Swaran Singh Committee**.)

'Mini-Constitution'



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1. Added three new words- SOCIALIST, SECULAR AND INTEGRITY in the Preamble.
2. Added FUNDAMENTAL DUTIES by the citizens (new Part IV A).





3. Made the president bound by the advise of the cabinet.
4. Provided for administrative tribunals and tribunals for other matters (Added Part XIV A).
5. Froze seats in the Lok Sabha & state legislative assemblies on the basis of 1971 census till 2001.



6. Made the constitutional amendments beyond judicial scrutiny.
7. Curtailed the power of judicial review and writ jurisdiction of the S.C. and H.C.





8. Raised the tenure of Lok Sabha and state legislative assemblies from 5 to 6 years.
9. Provided that the laws made for the implementation of Directive Principles cannot be declared invalid by the courts on the ground of violation of some Fundamental Rights.



10. Empowered the Parliament to make laws to deal with anti-national activities and such laws are to take precedence over Fundamental Rights.
11. Added 3 new Directive Principles



Equal justice



Free-legal aid



Protect environment, forests and wild life



Participation of workers in the management of industries

12. Facilitated the proclamation of national emergency in a part of territory of India.





13. Extended the one-time duration of the President's rule in a state from 6 months to one year.
14. Empowered the Centre to deploy its armed forces in any state to deal with a grave situation of law and order.
15. Shifted 5 subjects from **State list** → **Concurrent list**



Administration of justice
Constitution and organisation of all courts except S.C & H.C



Education



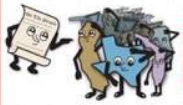
Forests
Protect wild animals & birds

16. Did away with the requirement of quorum in the Parliament and the state legislatures.
17. Empowered the Parliament to decide from time to time the rights and privileges of its members and committees.





18. Provided for the creation of the ALL-INDIA JUDICIAL SERVICE
19. Shortened the procedure for disciplinary action by taking away the right of a civil servant to make representation at the second stage after the inquiry (i.e., on the penalty proposed).



Forty-Fourth Amendment Act, 1978



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(Janata Government - mainly to nullify some of the distortions introduced by the 42nd Amendment Act, 1976)

1. 

- Lok Sabha
- State legislative assemblies

Restored

2. 
- Parliament
- State legislatures

QUORUM

3. Omitted the reference to the British House of Commons in the provisions pertaining to the parliamentary privileges.



4. Constitutional protection to publication in newspaper of true reports of the proceedings of the Parliament and the state legislatures.



5. Empowered the president to send back once the advice of cabinet for reconsideration. But, the reconsidered advice is to be binding on the president.



6. Deleted the provision which made the satisfaction of the president, governor and administrators final in issuing ordinances.

7. Restored some of the powers of the Supreme Court and high courts.



8. Replaced the term INTERNAL DISTURBANCE ✗ ARMED REBELLION ✓ National Emergency

9. Made the President to declare a national emergency only on the written recommendation of the cabinet.

10. Made certain procedural safeguards with respect to national emergency and President's rule.



11. Right to property

DELETED



from Fundamental Rights — Made it only a legal right.

12. Fundamental rights

✓ [ARTICLES 20 AND 21]



NATIONAL EMERGENCY

Cannot be suspended

13. **OMITTED**

Provisions which took away power of the court to decide



ELECTION DISPUTES

- President
- Vice-president
- Prime minister
- Speaker of the Lok Sabha

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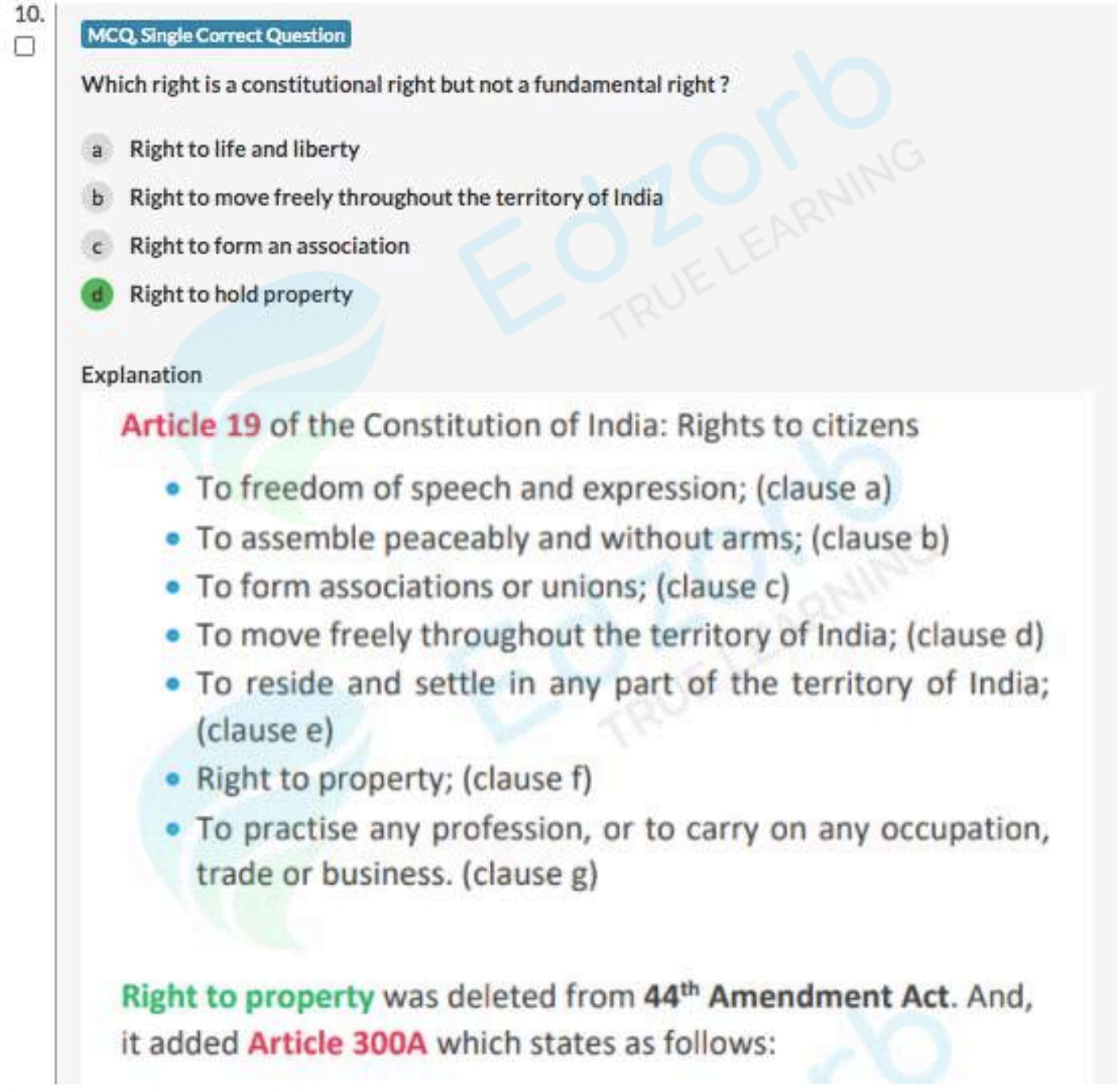
Q.7) Right to property is a_____

a) Fundamental Right
b) Legal Right
c) Social Right
d) Directive Principle of the State

Ans: B

Source: Edzorb Law QBank- Constitution- Unit 7- Q 10



10.

MCQ, Single Correct Question

Which right is a constitutional right but not a fundamental right ?

a Right to life and liberty
b Right to move freely throughout the territory of India
c Right to form an association
d Right to hold property

Explanation

Article 19 of the Constitution of India: Rights to citizens

- To freedom of speech and expression; (clause a)
- To assemble peaceably and without arms; (clause b)
- To form associations or unions; (clause c)
- To move freely throughout the territory of India; (clause d)
- To reside and settle in any part of the territory of India; (clause e)
- Right to property; (clause f)
- To practise any profession, or to carry on any occupation, trade or business. (clause g)

Right to property was deleted from **44th Amendment Act**. And, it added Article 300A which states as follows:

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Right to property was deleted from **44th Amendment Act**. And, it added **Article 300A** which states as follows:

No person shall be deprived of his property save by the authority of law.



Indian Handicraft Emporium Vs Union of India

Right to property is a human right as a **constitutional right** under **Article 300-A**, but it is **not a fundamental right**. It is indeed a Statutory right but each and every claim to property would not be property rights.

Read more: https://indiankanoon.org/doc/1231613/

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1071.

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Q.8) Which of the following 14 not mentioned in Directive Principles of State Policy under The Constitution of India?

a) Right to adequate mean of livelihood
b) Right to equal pay for equal work
c) Promotion of international peace and security
d) Free and compulsory education for children up to fourteen years of age

Ans: D

Source: Edzorb Law QBank- Constitution- Unit III- Q 16

16.

MCQ, Single Correct Question

Which of the following is not a Directive Principle of State?

a Organization of village panchayats.

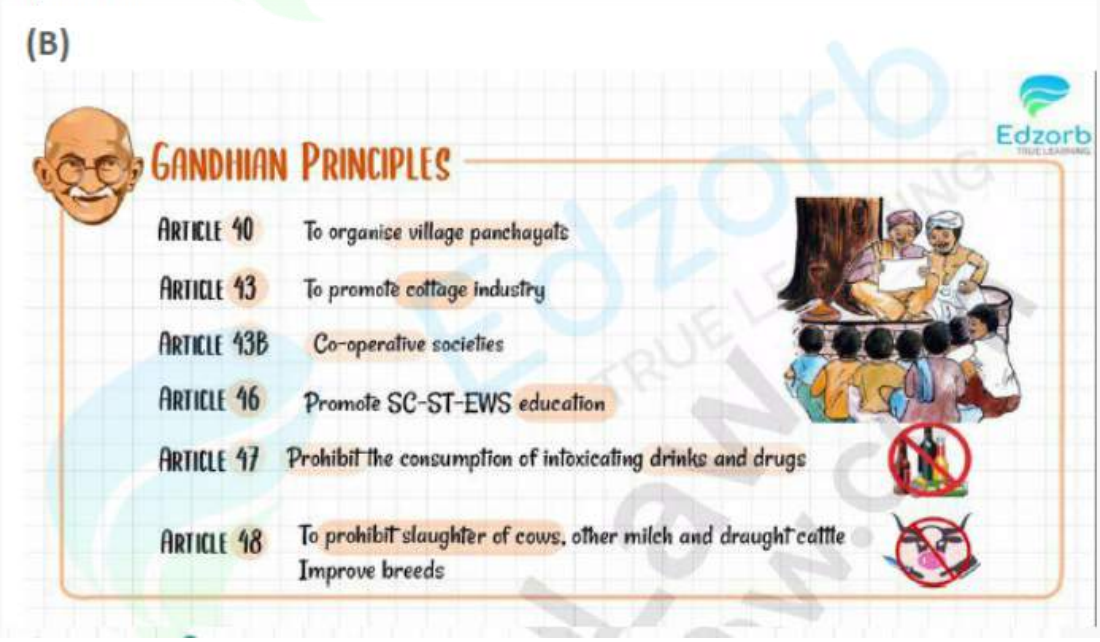
b Provisions for free and compulsory education for the citizens of all age groups.

c Provision for just and human conditions of work.

d Promotion of educational and economic interests of Scheduled Castes and Scheduled Tribes and other weaker sections.

Explanation

(B)



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LIBERAL PRINCIPLES



ARTICLE 44	Uniform civil code
ARTICLE 45	To promote early childhood care and education till 6 years
ARTICLE 48	Agriculture, Husbandary on scientific lines
ARTICLE 48A	To protect and improve environment
ARTICLE 49	To protect monuments, places objects of artistic or historic interest which are declared to be of national importance
ARTICLE 50	To separate the judiciary from the executive in the public services of the State
ARTICLE 51	To promote international peace and security Respect for international law and treaty obligations Settlement of international disputes by arbitration









Constitution (Eighty-sixth Amendment) Act, 2002 inserted **Article 21-A** to provide free and compulsory education of all **children in the age group of six to fourteen years** as a **Fundamental Right**.



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Option (B) is wrong as:

- It is a **Fundamental Right** and not a DPSP.
- it is for children of **6 to 14** years.

T.M.A Pai Foundation Vs State of Karnataka
AIR 2003 SC355

State can determine the status of a **religious or linguistic** minority and religious and linguistic minorities, who have been put on a par in **Article 30** and any regulation framed in the **national interest** must necessarily apply to all educational institutions, whether run by the **majority or the minority**.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1301, 1512.
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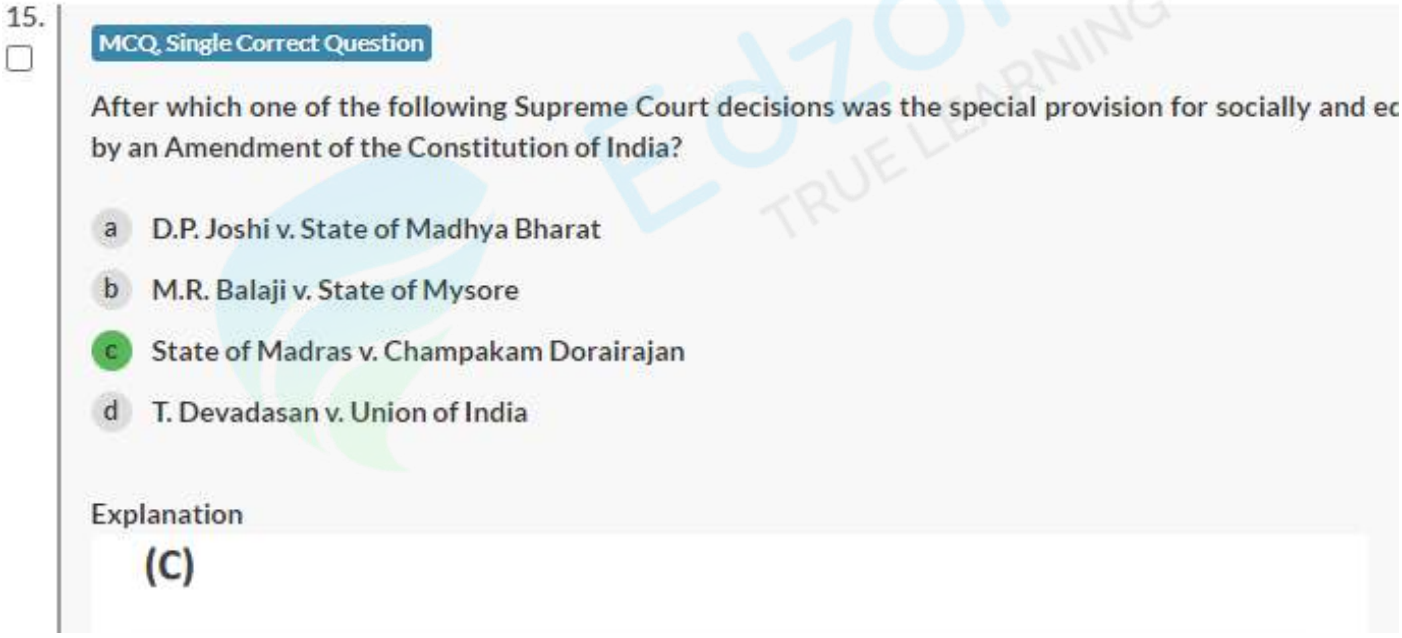
Q.9) Article 340 of the Indian Constitution deals with

a) Backward Classes Commission
b) Election Commission
c) Union Public Service Commission
d) Finance Commission

Ans: A

Source: Edzorb Law QBank- Constitution- Unit 8- Q 15


15.

MCQ, Single Correct Question

After which one of the following Supreme Court decisions was the special provision for socially and ec
by an Amendment of the Constitution of India?

a D.P. Joshi v. State of Madhya Bharat

b M.R. Balaji v. State of Mysore

c State of Madras v. Champakam Dorairajan

d T. Devadasan v. Union of India

Explanation

(C)

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The term '**backward classes**' is not described in the Constitution.

Articles	Provisions
Article 15	**Prohibition** of **discrimination** on grounds of religion, race, caste, sex or place of birth.
Article 15 (4)	State shall **not** be prevented from making any provisions for the **advancement of any socially and economically backward classes** of citizens or for Scheduled Castes and Scheduled Tribes.
Article 15 (5)	This clause was added in **93rd** amendment in 2005 and allows the state to make **special provisions for backward classes or SCs or STs** for **admissions** in **private educational** institutions, aided or unaided.
Article 16	Equality of opportunity in matters of **public employment.**
Article 16(4)	This clause allows the state to **reserve vacancies in public service for any backward classes** of the state that are not adequately represented in the public services.
Article 16(4A)	This allows the state to implement **reservation in the matter of promotion** for SCs and STs.
Article 16(4B)	This allows the state to consider **unfilled vacancies reserved for backward classes** as a

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	separate class of vacancies not subject to a limit of **50% reservation**.
Article 340	President can constitute a **commission to investigate the condition of socially and educationally backward classes** and specify them.

Food for Thought!

Is India truly secular if there is reservation?



Reservation isn't a fundamental right: Supreme Court - https://economictimes.indiatimes.com/news/politics-and-nation/reservation-isnt-a-fundamental-right-supreme-court/articleshow/76332024.cms

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1020

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Q.10) Joint sitting of both Houses of Parliament is chaired by

a) President of India
b) Chairman of Rajya Sabha
c) Speaker of Lok Sabha
d) None of the above

Ans: C

Source: Edzorb Law QBank- Constitution- Unit 3- Q 22

22.

MCQ, Single Correct Question

Joint sitting of both Houses of Parliament is chaired by

a Speaker of Lok Sabha
b Chairman of Rajya Sabha
c President of India
d None of the above

Explanation

Ans) A

Article 118 (4)

Speaker of the House of the People**(Lok Sabha) will preside** at a joint sitting of the two Houses.



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- Speaker of the two houses of the Parliament is responsible for ensuring the smooth functioning of the House.
- In the **Rajya Sabha**, the role of the Speaker is carried out by **the Vice President** of the country

Article 108

Joint Session

President summons both the Houses for a Joint sitting to deliberate and vote on the Bill which has been pending.

Reference: Constitution of India by M.P. Jain 6th Edition, Page No. 201

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CONSTITUTION

1. Discuss the rights granted to convicted person under the Constitution. Elaborate the findings of the court in Selvi vs Union of India and the development of the issue in the later cases. - 8 Marks

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Q1. Constitution

3/8

Article 20 deals with the right of convicted persons. The constitution of India, 1950 has provided three protections to the convicted persons which are embodied in the Art. 20 of the constitution. These are as follows:

Unnecessary repetition, follow the correct order

(a) The protection against self incrimination under Art. 20(3)

(b) The protection against double jeopardy [Art. 20(2)]

(c) The protection against ex post facto laws. [Art 20(3)] 20(1)

(a) The protection against self-incrimination — Art 20(3) reads as:

"A person accused of any offence

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→ What does 'compel' mean here?

shall not be compelled to be a witness against himself"

"Person accused of" means that a formal accusation has been made against such person which might result in his conviction.

The case of Kathi Kalu V. State of Bihar SC → Facts? Issue? Mention them at least in a line.

"No person can be compelled or forced to give evidence against himself."

Selvi V. ~~Stat~~ UOI, 2010 SC

In this case the petitioner has challenged the narco analysis, brain finger mapping and polygraph test which are being conducted against the consent of the person accused of an offence. The Supreme Court held the following guidlines—

→ Discuss the facts properly.

→ What is Narco Analysis and the other tests etc.

(1) No person shall be examined or compelled to give evidence against his consent.

(2) If an accused person consents to give evidence he shall be explained to the consequences of such test and his lawyer shall be present.

(3) The consent of person shall be recorded by the judicial magistrate.

(4) On the hearing before the judicial magistrate Lawyer of accused shall be present.

Thus, even if the accused has consented to such tests, he shall be heard properly by the judicial magistrate to ensure that he has not been forced to give evidence.

→ Bring S 200 CrPC

→ Confession under the Evidence Act

(2) Art 20(2) – The protection against double jeopardy – It reads as –

"No person shall be prosecuted and convicted / Punished for the same offence twice."

It is based on the maxim – "Nemo debet vis vexari". → What does it mean?

The Code of criminal procedure 1973 u/s 300 also deals with this principle of double jeopardy.

essentials – (1) Accused must be convicted on the same offence for which he has been prosecuted before.

(2) Proceeding was conducted before the Judicial magistrate or court in judicial proceeding.

→ Pinpoint the difference b/w S. 300 CrPC & Art. 20(2)

→ S. 300 CrPC is for the convicts & the acquicts as well.

(3) The protection against ~~ex post facto~~ ex-post facto laws —

Art. 20(1) reads as —

"No person shall be ~~arrested~~ convicted except for the violation of law in force at the time of ~~commission~~ commission of act or ~~omission~~ omission nor shall be subjected to greater punishment than at the time of commission of act of omission."

The Indian constitution protects only from two types of ex post facto laws —

(1) The law which was not in force at the time of commission of offence.

(2) The punishment which was enhanced after the punishment of offence.

→ What if the punishment is reduced?

There is one more ex post facto law which is not covered under Art 20(1). that is "A procedure which has been changed after the commission of offence".

'offence' has the same meaning as defined in Sec. 26 of General Clauses Act.

?

What is that meaning? This is not self-explanatory.

Provide a well-rounded conclusion.

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Q.11) Under Constitution of India, the procedure for the removal of a Supreme Court Judge is given in

a) Article 126
b) Article 127
c) Article 124(4)
d) Article 124(6)

Ans: C

Source: Edzorb Law QBank- Constitution- Unit 4- Q 13

13.

MCQ, Single Correct Question

Judges of the Supreme Court can be removed from their office by

a impeachment
b the President
c the Council of Ministers
d the House of the People

Explanation

(B)

Article 124 (4) of the Indian Constitution:

The motion of removal can be started either House of the Parliament on the **ground of proved misbehaviour or incapacity**

The motion has to be passed by both the Houses by the **special majority** of both the houses

The same is presented to the **President** in the same session who makes the **final order.**

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The process of removal:

- A **removal motion** signed by **100 members** (in the case of Lok Sabha) or **50 members** (in the case of Rajya Sabha) is to be given to the Speaker/Chairman.
- The **Speaker/Chairman** may admit the motion or refuse to admit it.
- If it is admitted, then the Speaker/Chairman is to constitute a three-member committee to investigate into the charges.
- The committee should consist of

  a) the Chief Justice or a Judge of the Supreme Court,
  b) a Chief Justice of a High Court, and
  c) a distinguished jurist.
- If the committee finds the judge to be guilty of misbehaviour or suffering from an incapacity, the House can take up the consideration of the motion.
- After the motion is passed by each House of Parliament by special majority, an address is presented to the president for removal of the judge.
- Finally, the President passes an order removing the judge.

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Did you Know?

Veeraswami Ramaswami was the first judge of the Supreme Court of India against whom removal proceedings were initiated in India.



Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 209, 88.

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Q.12) Article 352 of the Indian Constitution deals with:

a) Election Commission
b) Finance Commission
c) Proclamation of Emergency
d) Union Public Service Commission

Ans: C

Source: Edzorb Law QBank- Constitution- Unit 4- Q 17

17.

MCQ, Single Correct Question

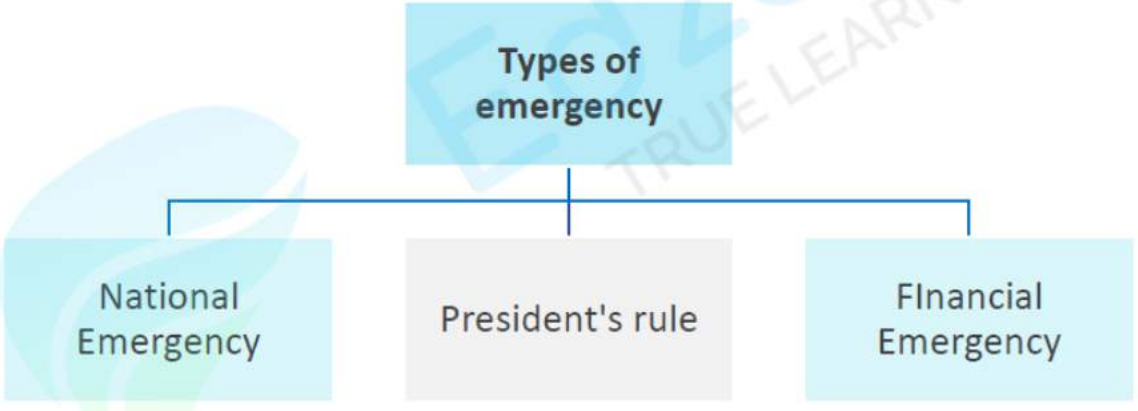
While a proclamation of emergency is in operation
I. the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised
II. the power of the Parliament to make laws with respect to any matter shall include the power to make laws on the subject which is not enumerated in the Union List.
Which of the above statements is/are found to be correct?

a Only (I)
b Only (II)
c Both (I) and (II)
d Neither (I) nor (II)

Explanation

(C)

Black law's dictionary - Emergency "as a failure of social system to deliver reasonable conditions of life".



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President's Rule: (Article 256)

- Failure of constitutional machinery in state also known as the **President's rule.**
- If the president on **Governor's report** or **otherwise** is satisfied that the situation has arisen that the government can't be carried in accordance with the constitutional provisions then, he may issue State emergency.

Did you Know?

President may declare emergency when a report is not received from the governor. This was done by **President Sh. Venkataraman** in 1991 in the state of Tamil Nadu even though he didn't receive a report from the governor.



President's rule

- **Except in Chhattisgarh and Telangana**, President's rule was in the rest of the states.
- **Uttar Pradesh leads** the charts where President's rule was imposed **10 times** followed by Bihar where it was imposed 9 times.

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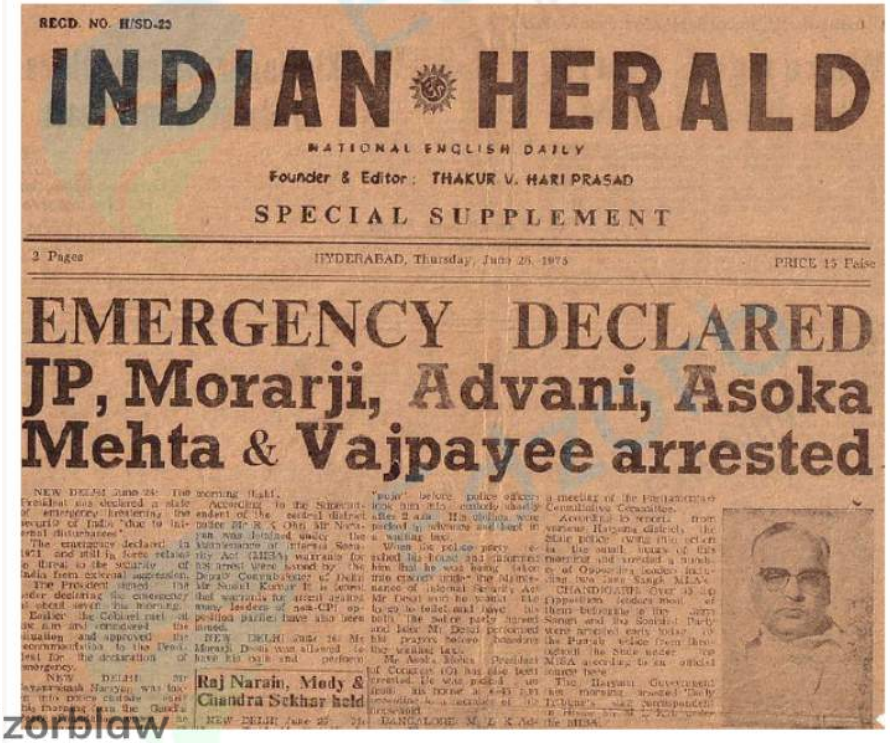
National Emergency: (Article 352)

- Where there is threat to the security of India due to **war, external aggression** or **armed rebellion**.
- Imposed by the President on the basis of **written request** by the council of ministers headed by the Prime Minister.
- Effect of Proclamation of Emergency: (**Article 353**)
  - The executive power of state goes to the union.
  - Power of Parliament to make laws on any subject not enumerated in Union List.

Did you Know?

During Emergency, all rights are suspended except **Article 20** and **21** of the Indian Constitution.





RECD. NO. H/SD-23

INDIAN HERALD

NATIONAL ENGLISH DAILY

Founder & Editor : THAKUR V. HARI PRASAD

SPECIAL SUPPLEMENT

2 Pages HYDERABAD, Thursday, June 26, 1975 PRICE 15 Paise

EMERGENCY DECLARED

JP, Morarji, Advani, Asoka Mehta & Vajpayee arrested

Raj Narain, Mody & Chandra Sekhar held

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Financial Emergency: (Article 360)

- The President has the power to declare financial emergency if he is satisfied that the financial stability or the credit of India or any part of its territory is threatened.
- It has to be laid before both the Houses of Parliament and ceases to operate at the expiration of two months unless meanwhile approved by the resolution of Houses.
- **Not imposed even once** till now in the country

Did you Know?

National Emergency has been declared three times in the country,

- first in **1962** during **Indo-China war**,
- second in **1971** during **Indo-Pak War** and
- third was imposed in **1975** on grounds of **internal disturbance**.



Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 738-770

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Q.13) In a suit against the Central Government the authority to be named as defendant is

a) The President
b) The Prime Minister
c) The Minister of concerned department
d) The Union of India

Ans: D

Source: Edzorb Law QBank- Constitution of India Unit 11- Q 32

32.

MCQ, Single Correct Question

The defendant in a suit against the central government the authority is named as

a Prime Minister
b The Union of India
c The President
d Controller and Auditor General

Explanation

Ans) B

Article 300

सत्यमेव जयते
Goverment Of India

- Suit against Government of India by the name of the **Union of India**.
- Suit against Government of **State by the name of the State**

Did you Know?

Section 79 to 82 and **Order 27** of the Civil Procedure Code, 1908 deal with **procedure for investigation of suits by or against the government and public officers.**



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Secretary, Ministry of Works & Housing, Government of India Vs Mohinder Singh Jagdev JT 1996 (8) 46

- In this case appeal was filed by the Secretary of the Department, the same was treated to have been filed by the Union of India.

The court held,

- Union of India can lay the suit and be sued under **Article 300** of the Constitution in relation to its affairs.
- Under **Section 79** read with **Order 27**, **Rule 1** CPC, in a suit, by or against **Central Government**, the authority to be named as **plaintiff or defendant**, as the case maybe, shall be the **Union of India**.

Reference: Constitution of India by M.P. Jain 6th Edition, Page 1068

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Edzorb Law

Randhir Singh Vs Union of India

The first case on ' Equal pay for equal work' decided by Supreme court of India.

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Q.14) Under Section 100 of Civil Procedure Code 1908 second appeal lies to the High Court from every decree passed in appeal by any subordinate Court to the High Court if it involves

a) Question of Law
b) Question of Fact
c) Mixed Question of Law and Fact
d) Substantial Question of Law

Ans: D

Source: Edzorb Law QBank- CPC- Unit 5- Q 45

45.

MCQ, Single Correct Question

Where does the second appeal shall lie under Section 100 of C.P.C?

a High Court
b Supreme Court
c District Court
d High Court and Supreme Court both

Explanation

(A)

Section 100 of CPC deals with the provisions of Second appeal:

Section 100(1) states that an appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to a High Court, on any of the following grounds:

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- the decision being contrary to law or to some usage having the force of law;

- the decision having failed to determine some material issue of law or usage having the force of law;

- a **substantial error or defect** in the procedure provided by this Code or by any other law for the time being in force, which may possibly have produced error or defect in the decision of the case upon the merits.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 467, 472

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Q.15) The maximum amount which a Court may order for payment of compensatory cost in case of false or vexatious claims or defence under Civil Procedure Code 1908 is

a) Rs. 10,000/-
b) Rs. 3,000/-
c) Rs. 5, 000/-
d) Rs. 25,000/-

Ans: B

Source: Edzorb Law QBank- CPC- Unit 5- Q 7

7.

MCQ, Single Correct Question

Maximum amount which a court may order for payment of compensatory cost in case of false or vexations claims or defences under Civil Procedure Code, 1908, is:

a Rs. 10,000/-
b Rs. 3,000/-
c Rs. 25,000/-
d Any amount

Explanation

(B)

Section 35A of the CPC discusses Compensatory costs in respect of false or vexatious claims or defences:

Section 35 A (1) - If in any suit or other proceedings, including an execution proceeding,



- any party objects to the claim of defence
- the Court, holds such claim or defence to be false or vexatious,
- makes an order for the payment to the party by whom such claim or defence has been put forward, of cost by way of compensation.

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Conditions for Application of Section 35A

- The claim or defence must be false or vexatious;
- Objections must have been taken by the other party that the claim or defence was false to the knowledge of the party raising it; and
- Such claim must have been disallowed or withdrawn in whole or in part.

Section 35 A (2) - No Court shall make any such order for the payment of an amount exceeding **Rs.3000** or **exceeding the limits of its pecuniary jurisdiction**, whichever amount is less.



Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 414, 155

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Q.16) Under which provision of Civil Procedure Code, Attachment before Judgement is provided?

a) Order 26 Rule 04
b) Order 39 Rule 02
c) Order 38 Rule 05
d) Order 40 Rule 01

Ans: C

Source: Edzorb Law PYP Pointers- Mixed Bag Revision- String 6



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Q.17) Order 5 of the Civil Procedure Code 1908 provides for

a) Admission
b) Summoning and attendance of witness
c) Issue and service of summons
d) Pleadings

Ans: C

Source: Edzorb Law QBank- CPC- Unit 9 Q 15

15.

MCQ, Single Correct Question

During service of summons defendant was found absent from his residence and within reasonable time no chance to get back at his residence, service of the summons may be made on—

a On servant
b Minor daughter
c Adult son
d Munim

Explanation

(C)

Order V Issue and service of summons Issue of Summons

Rule 15: **Where service may be on an adult member of defendant's family.—**

Where in any suit the defendant is absent from his residence at the time when the service of summons is sought to be effected on his at his residence and there is no likelihood of his being found at the residence within a reasonable time and he has no agent empowered to accept service of the summons on his behalf,

- service may be made on **any adult member of the family**, whether male or female, who is residing with him.

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Explanation: A servant is not a member of the family within the meaning of this rule.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 246

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Q.18) Pleading can be amended under which of the provisions of Civil Procedure Code 1908:

a) Before the trial Court only
b) Before the first Appellate Court only
c) Before the second Appellate Court only
d) Before either the trial Court, first Appellate Court or second Appellate Court

Ans: D

Source: Edzorb Law QBank- CPC- Unit 8- Q 3

3.

MCQ, Single Correct Question

Pleadings can be amended:

a before the trial court only

b before the first appellate court only

c before either the trial court or first appellate court or second appellate court

d before second appellate court only

Explanation

C

Order 6 Rule 17

Amendment of pleadings— The Court may

- **at any stage** of the proceedings
- allow any party to **alter or amend** his pleadings
- it is made for the purpose of determining the **real questions in controversy**

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Neelakandan Nair Vs Parameswara Kurup

2003(2) KLT 943

The Court was of the view that in a narrower sense trial would mean only the stage of actual adducal of evidence - documentary or oral and in the context of Order 6 Rule 17 CPC, it means the commencement of actual trial or actual adducal of evidence.



Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 206, 208, 218

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Q.19) Attachment of a portion of salary can be continued as a provision of the Code of Civil Procedure. 1908 for a maximum period of

a) 6 months
b) 12 months
c) 24 months
d) 36 months

Ans: C

Source: Edzorb Law QBank- CPC- Unit 1- Q 9

5.

MCQ, Single Correct Question

In execution of a decree for the maintenance, salary of a person can be attached to the extent of

a one-fourth
b one-third
c two-third
d one-half

Explanation

(B)

Section 60 deals with Property liable to attachment and sale in execution of decree:

Section 60(1)(ia) – 1/3rd of the salary in execution of any decree for maintenance;

Amendments to Section 60 of the CPC by Act No. 66 of 1956, in execution of decrees for maintenance only one third of the salary would be exempt from attachment irrespective of the amount of the salary.

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Order 21, Rule 48

- Order 21, Rule 48 makes a provision for the attachment of salaries or allowances of public officers or servants of railway company or local authority.

- There is no specific provision on the line of Rule 48 of Order 21 for the attachment of the salary of a private servant.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 653, 655

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Q.20) Preliminary decree can be passed in a suit

a) For partition
b) For possession and mesne profit
c) For partnership
d) All of the above

Ans: D

Source: Edzorb Law QBank- CPC- Unit 1- Q 9

9.

MCQ, Single Correct Question

A decree can be

a Preliminary
b Final
c First preliminary then final
d Either preliminary or final

Explanation

9.(D)

Explanation to Section 2(2): Decree can be either **preliminary or final.**

PRELIMINARY DECREE	FINAL DECREE
Determines rights of the parties with respect to all or any of the matters in controversy but **does not completely dispose** of the suit.	When within the prescribed period **no appeal is filed** against the decree and the matter is decided.

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It is passed in suits for-

- possession and for mesne profits,
- administration suits,
- pre-emption suits,
- dissolution of partnership,
- partition suits,
- mortgage suits, etc.,

- When the decree, so far as the Court passing it completely disposes of the suit.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 19
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Q.21) The period of detention in civil imprisonment as a consequence of disobedience or breach of any injunction shall not exceed_____

a) One month
b) Three months
c) Six months
d) One year

Ans: B

Source: Edzorb Law QBank- CPC- Unit 5- Q 9

54.

MCQ, Single Correct Question

In civil imprisonment the period of detention due to breach of any injunction shall not exceed_____

a Six Months
b Four months
c Three month
d One Year

Explanation

Ans : C

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Order 39 Rule 2A

Consequence of disobedience or breach of injunction:



- In the case of **disobedience** of any injunction granted
- Disobedience of other order made under **Order 39 Rule 1 and Rule 2.**
- Breach of any of the terms on which the injunction was granted or the order.



Attachment of the property + **3 months**

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Thomson Press (India) Ltd. Vs Nanak Builders and Investors Pvt. Ltd. AIR 2013 SC 2389

- If the seller is guilty of breach, there is no question of setting aside the transaction or any consequence befalling a bona fide purchaser.
- The consequence prescribed i.e. imprisonment etc. would befall on the seller in such case.

State of Bihar Vs Rani Sana Bati Kumari AIR 1961 SC 221

- There must be willful disobedience of the injunction passed by the Court.

Reference: Civil Procedure Code, 1908 s 39 Rule 2A

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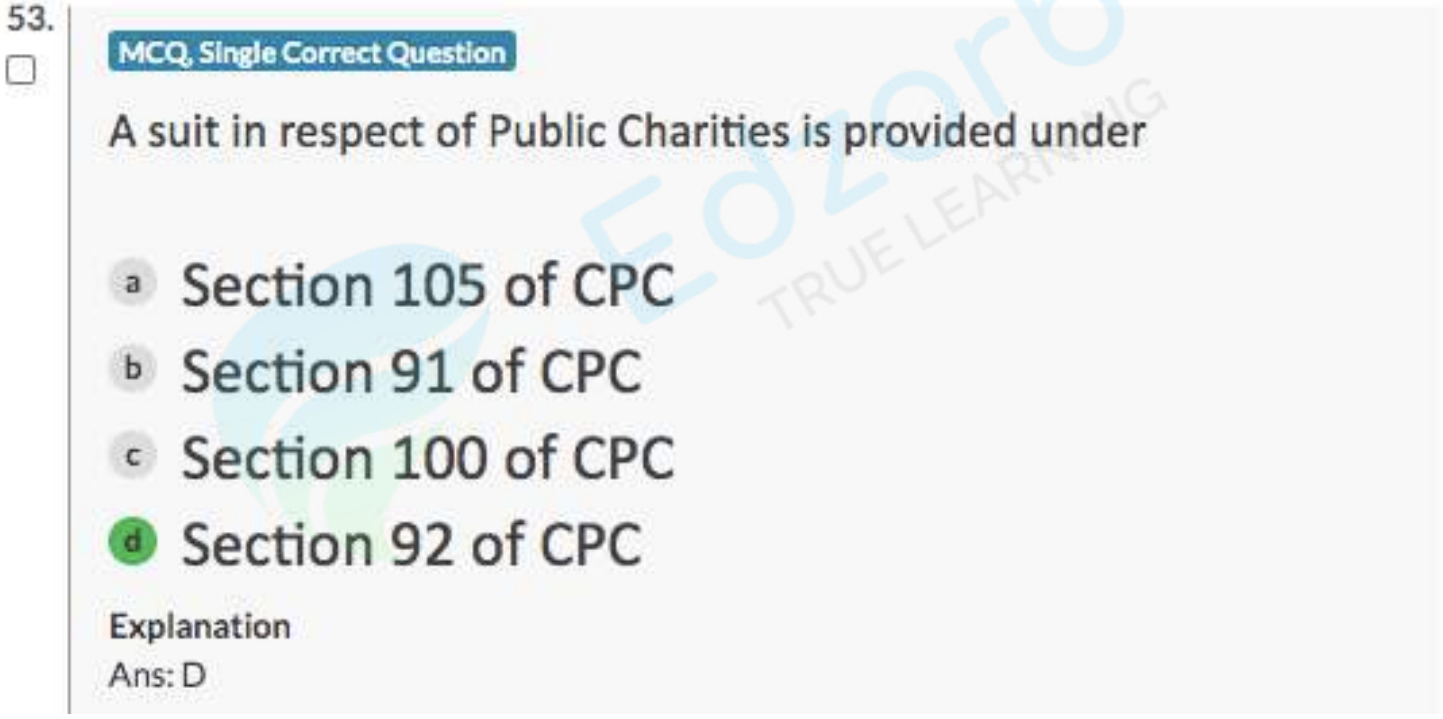
Q.22) A suit in respect of Public Charities is provided under

a) Section 41 of CPC
b) Section 92 of CPC
c) Section 100 of CPC
d) Section 91 of CPC

Ans: B

Source: Edzorb Law QBank- CPC- Unit 5- Q 53


53.

MCQ, Single Correct Question

A suit in respect of Public Charities is provided under

a Section 105 of CPC
b Section 91 of CPC
c Section 100 of CPC
d Section 92 of CPC

Explanation

Ans: D

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Section 92

Public Charities

- Three conditions required to be satisfied:
- The Trust in question is created for public purposes of a charitable or religious nature
- There is a breach of trust or a direction of Court is necessary in the administration of such a Trust
- The relief claimed is one or other of the reliefs as enumerated.



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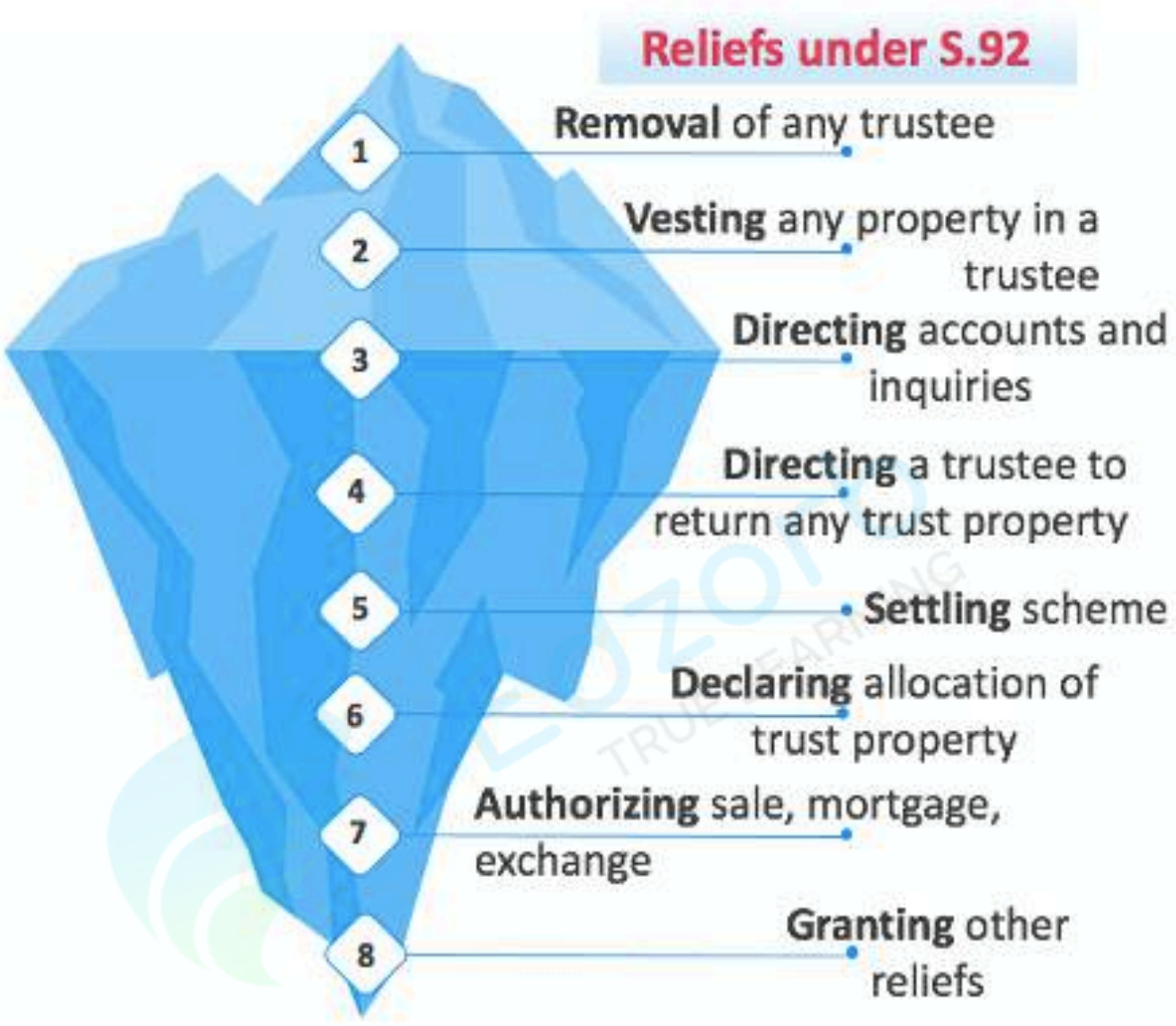

Ashok Kumar Gupta & Anr. Vs M/s Sitalaxmi Sahuwala Medical Trust and others
Civil Appeal No. 1917 Of 2020

The court decided, the Wakf created by Haji Elahi Bux was a Wakf created for a public purpose of charitable or religious nature.

Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 376

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Q.23) Where a party dies after conclusion of the hearing and before pronouncement of the judgement.

a) The suit shall abate

b) The suit shall not abate

c) It will be deemed that the judgement has been pronounced before death of the party

d) None of the above

Ans: C

Source: Edzorb Law QBank- CPC- Unit 10- Q 13

13.

MCQ, Single Correct Question

Death of a party after conclusion of the hearing but before pronouncement of the judgement will result in:

a No abatement of the suit

b Judgment deemed to be pronounced as before the death of the party

c Abatement of the suit

d Parties to file fresh suit

Explanation

Ans: b

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Order 22 Rule 6

- **No abatement by reason of death**
- Death of either party between the conclusion of the hearing and the pronouncing of the judgment.
- In spite of death, Judgment may be pronounced



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Golla Krishna Murthy Vs Golla Yellaiah (Died) 2001 (5) ALD 484

Hearing as occurring in **Order 22, Rule 6:**

- Hearing does not mean hearing of arguments only, it refers to all the stages of the trial of a suit.
- Hearing includes all that is done by the Court before reserving the case of judgment.
- **Hearing would be complete when nothing more is to be done by the Judge except writing the judgment.**

Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 372

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Q.24) If a party who has obtained an order to amend the pleadings under Civil Procedure Code, if not amended after, expiration of how many days shall not be permitted to amend the same without the leave of the Court?

a) 14 days
b) 15 days
c) 30 days
d) 45 days

Ans: A

Source: Edzorb Law QBank- CPC- Unit 8- Q 18

18.

MCQ, Single Correct Question

Limitation Period provided for the amendment of pleadings is

a 45 Days
b 15 Days
c 7 Days
d 14 Days

Explanation

Ans: D

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Order 6 Rule 17

Amendment of Pleadings

- The Court may allow either party to alter or amend pleadings.
- The manner must be just.
- Only those pleadings are allowed which are **necessary for the purpose of determining the real questions** in controversy between the parties.



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Process of filing an application for Amendment of Pleadings:

Step 1	An **application** for the amendment of pleadings to the concerned civil court.
Step 2	Production of the application before the **concerned civil judge**.
Step 3	Payment of required **court fee** under Court Fees Act, 1870.
Step 4	**Purpose** for altering the pleadings must be clearly mentioned.
Step 5	**Discretion** of Judge to allow the application.
Step 6	After getting the order from the court, the applicant needs to **file new pleadings** within the prescribed time and if no time has been prescribed by the court then he needs to file it in 14 days from the date of order.
Step 7	A **copy** of altered pleadings **to the opposite party** must be provided.

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Modi Spinning Mills Vs Ladha Ram & Sons

AIR 2002 SC 3369(3372)

Supreme Court held,

- The defendant cannot be allowed to change completely the case made in certain paragraphs of the written statement and substitute an entirely different and new case".

Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 281

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Q.25) What is estoppel?

a) Prohibition from proving a certain fact
b) Prohibition from claiming a certain property
c) To stop a person
d) None of the above

Ans: A

Source: **Edzorb Law QBank**- **Indian Evidence Act**- **Unit 1-Q 17**

17.

MCQ, Single Correct Question

A local development authority announced a housing scheme and accepted applications under it, subsequently finding that the scheme was in violation of the master plan cancelled it:

a It is free to do so without any shackles of promissory estoppel

b It is not free to do so due to promissory estoppel

c It is free to do so without any shackles of promissory estoppel as there cannot be any estoppel against the government in the exercise of its sovereign, legislative and executive functions.

d None of the above

Explanation

Answer: C

Sections 115 defines **Promissory Estoppels**.

The doctrine of is based on the Principles of justice, equity, and good conscience.

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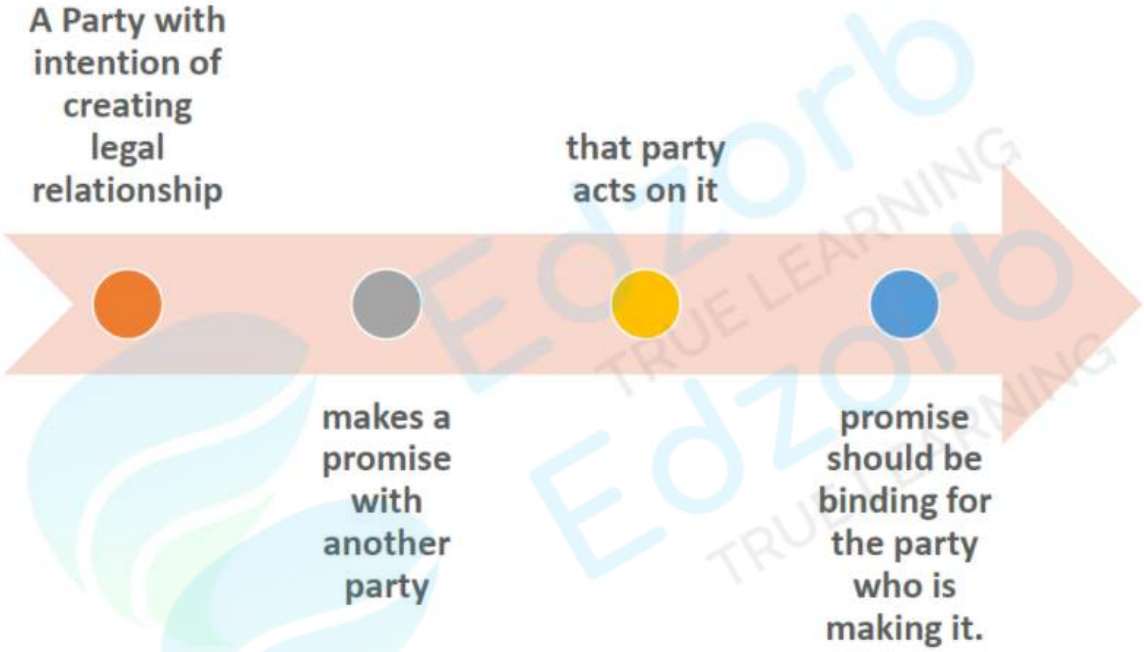

Ashok Kumar Maheshwari Vs State of U.P.
1998 2 SCC 502

In certain scenarios, the Government is spared from the doctrine of Promissory Estoppels. Estoppel **cannot be stretched to the extent of restricting the State** from exercising its sovereign and legislative powers.

Reference: Law of Evidence by M. Monir; 9th Ed., 2013, Page No. 389.
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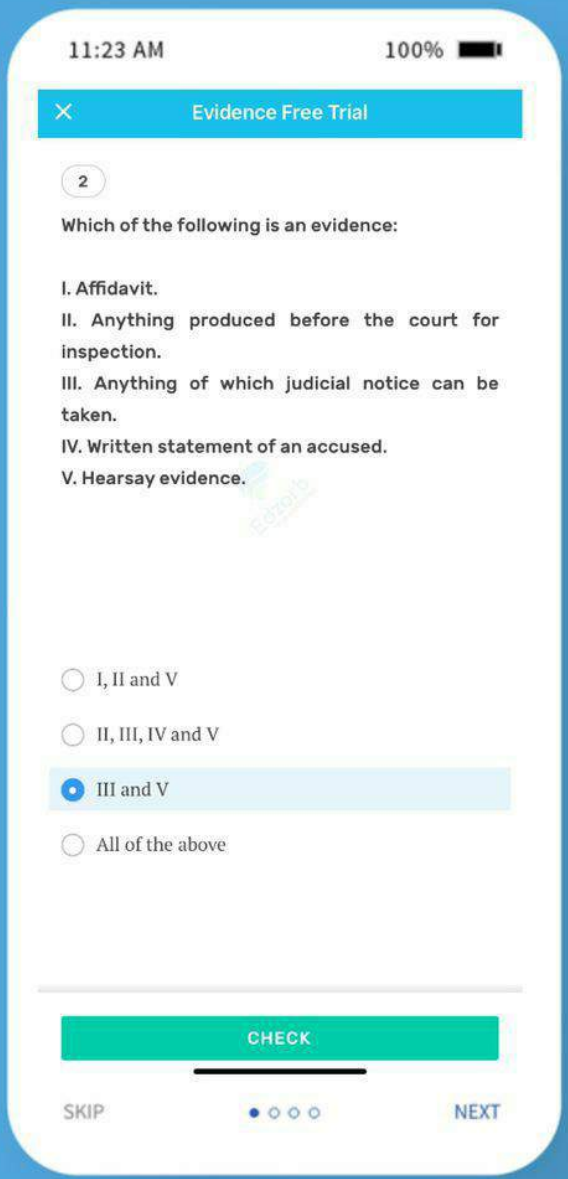

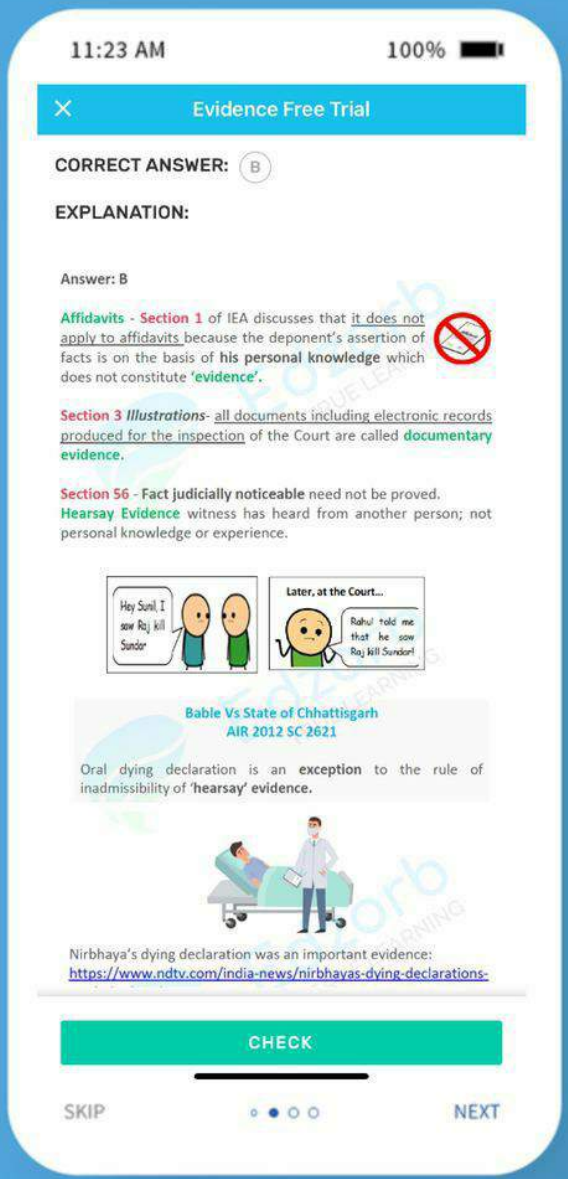

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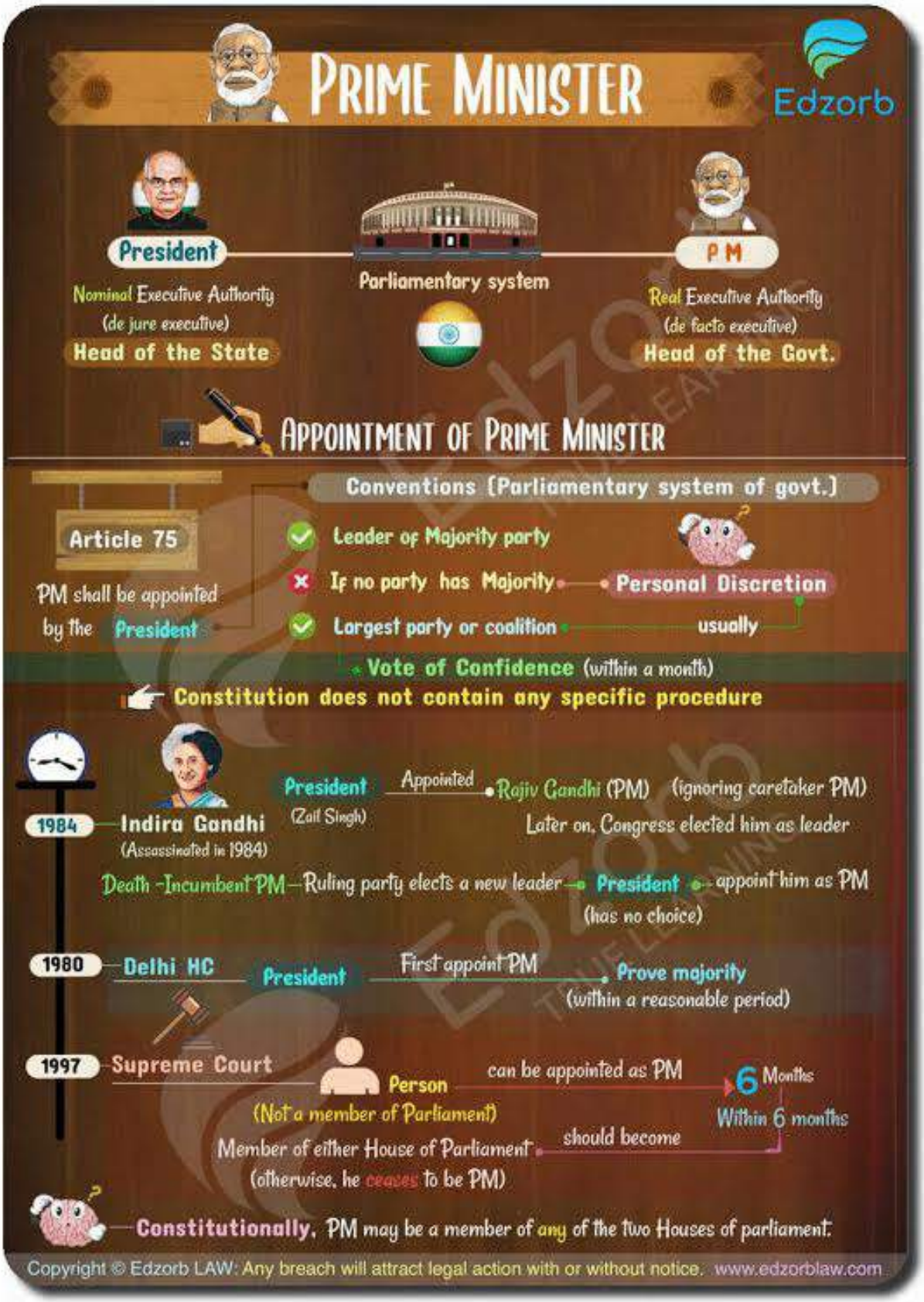

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HIGH COURT



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HISTORY

Article 214-231

1862	1866	>1950	1956 7th CAA	Present
High court • Bombay • Madras • Culcutta	Allahabad	HC of Province HC for State	Establish HC 2 or more States Or 2 or more States + UT	24 HC 3common HC Delhi (UT)- own HC

ORGANISATION

Strength Decided by President

Appointment	Eligibility	Oath	Tenure	Salaries	Transfer
President • CJ • Other Judges • Common HC Judges	Citizen Held Judicial office Or HC Advocate	Governor Or Nominated by	62 age	Determined by President	By President

Removal	Acting CJ	Additional Judges	Acting Judge	Retired Judges
President Misbehaviour Recomended by Parliament (Special Majority)	Appointed by President CJ – Absent Unable to perform duty	Appointed by President More work 2 years term	Appointed by President Judge Absent Unable to perform duty	Appointed by CJ of HC (Temporary)

JURISDICTION & POWERS

- ✓ Highest court of appeal (In state)
- ✓ Protector of FR
- ✓ Interpret Constitution

Original	Hear disputes (1st instance)	Writ: Under Article 226
Appellate	Appeal against judgements	Supervisory: Superintendence
Control	Subordinate courts	Judicial review: Article 226

Original jurisdiction

Matters	Enforcement	Cases
• Company laws • Marriage • Court contempt • Divorce Election disputes Revenue matters	Fundamental Rights	Transfered from Subordinate courts

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BIOME

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EQUATORIAL REGION

Tropical rainforest | Evergreen forest

25-30

>250 cm

- ✓ Heavy precipitation
- ✗ No winter rainfall

10°N
0°
10°S

Amazon forest
Congo basin
Coast of africa
Phillipines
Sumatra
Indonesia
Malaysia

Broad leaves

Canopy formation

Very tall trees

Very dense forest

No shedding of leaves

- Hardwood
- Mahagony
- Ebony
- Rosewood
- Rubber
- Cinchona

ECONOMIC ACTIVITIES

- Hunting, gathering
- Shifting cultivation
- Rubber, Coffee, Tea
- Sugarcane, Oil palm

RAIN FOREST


Semang (Malaysia)


Kubus (Sumatra)


Dayaks (Borneo)


Pygmies (Congo)


Amazon Indians (South America)

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PRELIMS

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PRE + MAINS INTEGRATED APPROACH

Sample

Q. "Equal Pay for Equal Work" is not expressly a constitutional right, it has been read into the Constitution through the interpretation of which other articles?

A. Article 14, 15

B. Article 39, 14, 15, 16

C. Article 21

D. None of the Above

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(B)

Equal Pay for Equal Work:

- The **directive principle of State Policy** under **Article 39.**
- It is the concept of labour rights that individuals in the same workplace be given equal pay.
- Equal pay relates to the full range of payments and benefits, including basic pay, non-salary payments, bonuses and allowances.



History of Equal Pay for Equal Work

As wage-labour became increasingly formalized during the Industrial Revolution, the principle of equal pay for equal work arose at the same part of first-wave feminism, with early efforts for equal pay being associated with ***nineteenth-century*** Trade Union activism in industrialized countries.

Principle of Equal Pay for Equal Work – Binding as precedent

State of Punjab Vs Jagjit Singh

(2017) 1 SCC 148

- **Decision of Lower court:** Temporary employees were not entitled to the minimum of the pay-scale, as was being paid to similarly placed regular employees was challenged.
- **Decision of Apex Court:** Principle of ***"equal pay for equal work"*** expounded through various decisions of Supreme Court constitutes law declared by Supreme Court, which is binding on all courts in India and is applicable to all temporarily engaged employees.

Did you Know?

The World Bank, which has tracked legal changes for the past decade, found ***Belgium, Denmark, France, Latvia, Luxembourg or Sweden*** were the only countries in the world to enshrine gender equality in laws affecting work.



Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1501.

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ARTICLE 165

ADVOCATE GENERAL OF THE STATE

Highest Law Officer in the State

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Appoints Advocate Gen.
Determines remuneration

Qualifications

Qualified to be appointed as a — **Judge of H C**

Judicial office- 10 years

Advocate of HC- 10 years

CONSTITUTION donot specify



- Term
- Removal Proceedurre



Entitled to appear before any court of law within the state

✓ Can speak ,take part in proceedings

State Legislature



- Both Houses
- Committee
- Without right to Vote

Removal

- By Governor at any time.
- Resignation to the Governor.
- Conventionally resigns when Govt. resigns or replaced.

✓ Holds office during the pleasure of the Governor.



DUTIES AND FUNCTIONS

- Advice to the State Government on legal matters.
- Functions conferred by the Constitution/ Law.
- Other duties (legal) assigned by Governor.

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