

Total No. of Questions : 6]

SEAT No. :

P937

[Total No. of Pages : 3

[5336]-54
LL.B. - III (Semester - V)
LEGAL WRITING
(2003 Pattern)

Time : 3 Hours]

[Max. Marks : 100

Instructions to the candidates:

- 1) All questions are compulsory.*
- 2) Figures to the right indicate full marks.*

Q1) Explain the following legal terms (Any Eight) :

[16]

- a) Obter Dictum.
- b) Animus deserendi.
- c) Lex non scripta.
- d) Mutatis mutandis.
- e) Ad-referendum.
- f) Quasi-judicial
- g) Caveat emptor.
- h) Donatio mortis causa.
- i) Tortfeasor.
- j) Jus in rem.
- k) Alibi.
- l) Res judicata

Q2) A precedent is binding or authoritative not because of the whole discussion but because of the ratio. Explain. **[16]**

OR

P.T.O.

Discuss the different kinds of precedents. What are the merits and demerits of the Doctrine of Precedent?

Q3) Write an Essay on the following topic (Any One) : **[16]**

- a) Public Interest Litigation.
- b) Role of legal education in modern society.
- c) Environmental Protection and the Law.

Q4) Draft a legal notice demanding money for dishonoured cheque. **[16]**

OR

Draft a notice of dissolution of a registered partnership firm.

Q5) Read the following passage carefully and answer the questions given below. **[16]**

Indian Constitution is perhaps one of the rarest constitutions of the world which contains specific provisions relating to environment protection. Under Article 48-A it puts duty on the 'state' while on 'citizens' under Article 51-A (g) to protect and to improve the environment. The judicial grammar of interpretation has made the right to live in healthy environment as Sanctum Sanctorum of human rights. Now it is considered as an integral part of right to life under Article 21 of the constitution. Article 32 and 226 of the constitution empower the Supreme Court and the High courts, respectively, to issue directions, orders or writs, including writs of Habeas corpus, Mandamus, Prohibition, Quo- warrant and Certiorari. The writs of Mandamus, Certiorari and Prohibition are generally resorted to environmental matters.

The Indian judiciary has made an extensive use of these constitutional provisions and developed a new 'environmental jurisprudence' of India. In India most of the environmental matters have been brought before the judiciary through "Public Interest Litigation" (PIL). Out of all the legal remedies available for the protection of environment, the remedy under the constitution is preferred because of its relative speed, simplicity and cheapness.

The Supreme Court while developing a new environmental jurisprudence has held that the power of the Supreme Court under Article 32 is not restricted and it could award damages in Public Interest Litigation or writ petition in those cases where there has been any harm or damage to the environment due to the pollution. In addition to damages, the person guilty of causing pollution can also be held liable to pay exemplary damages so that it may act as deterrent for others not to cause pollution in any manner.

The said approach of the Supreme Court is based on “Polluters Pay Principle” which is laid down by it in *M.C.Mehta v Kamal Nath* in 1997. The Supreme Court has imposed exemplary damages on multinational companies such as Coca Cola and Pepsi for damaging the ecology in the state of Himachal Pradesh and Jammu & Kashmir by painting advertisements on the rocks. The Supreme Court directed the companies to remove these advertisements without further polluting the environment.

Questions:

- a) What are the specific provisions relating to environment protection in the Indian Constitution? [3]
- b) Which writs are generally resorted by the courts in environmental matters? [2]
- c) Why is it said that the power of the Supreme Court under Article 32 is not restricted? [3]
- d) Which principle has been evolved by the Supreme Court in the year 1997? Why? [4]
- e) Why has the Supreme Court imposed exemplary damages on multinational companies? [3]
- f) Give a suitable title to the passage. [1]

Q6) Write a critical analysis of **Any Two** cases. [20]

- a) Balaji Raghavan V Union of India. [AIR 1996 SC 770]
- b) Daniel Latifi V Union of India. [AIR 2001 S 3958]
- c) Gautam Paul V Debi Rani Paul [AIR 2001 SC 61]
- d) R.D. Saxena V Balaram Prasad Sharma. [AIR 2000 SC 2912]

