Uttarakhand Civil Judge (Mains) 2018

भाषा (Language) · compulsory paper

Time allowed: Three Hours · Maximum Marks: 100
निर्धारित समय : तीन घण्टे · पूर्णांक : 100

Part-1

1. Translate the following English passage into the ordinary language spoken in courts, using Devanagari Script : 30

"The executive power of Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

Provided that:

The President may, by writing under his hand addressed to the Vice-President, resign his office;

The President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in Article 61.

The President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Any resignation addressed to the Vice-President under Clause (1) shall forthwith he communicated by him to the Speaker of the House of the People.

A person who holds, or who has held, office as President shall subject to the other provisions of this Constitution, be eligible for re-election to that office

No person shall be eligible for election as President unless he - is a citizen of India has completed the age of thirty-five years, and is qualified for election as a member of the House of the People.

A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Manner of Election of President -

As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

For the purpose of securing such uniformity among the states inter-se as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner :

Every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in clause(a) shall be further increased by one;

Each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies

of the States under sub-clauses (a) and (b) by the total number of elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

Part-II

2. निम्नलिखित हिन्दी गद्यांश का सामान्य अंग्रेजी भाषा में अनुवाद कीजिए : 30

Translate the following Hindi passage into ordinary English language :

कार्यकारी मुख्य न्यायमूर्ति की नियुक्ति - जब भारत में मुख्य न्यायमूर्ति का पद रिक्त है या जब मुख्य सर्व अनुपस्थिति के कारण या अन्यथा अपने पद के कर्तव्यों का पालन करने में असमर्थ हो तब न्यायालय के अन्य न्यायाधीशों में से ऐसा एक न्यायाधीश, जिसे राष्ट्रपति इस प्रयोजन के लिए नियुक्त करे, उस पद के कर्तव्यों का पालन करेगा।

पर मायाघाशा की नियुक्ति - यदि किसी समय उच्चतम न्यायालय के सत्र को आयोजित करने या चाल रखन के लिए उस न्यायालय के न्यायाधीशों की गणपूर्ति प्राप्त न हो तो राष्ट्रीय न्यायिक नियुक्ति आयोग, भारत के मुख्य न्यायमूर्ति द्वारा उसे किए गए किसी निर्देश पर, राष्ट्रपति की पूर्व सहमति से और सम्बन्धित उच्च न्यायालय के मुख्य न्यायमूर्ति से परामर्श करने के पश्चात, किसी उच्च न्यायालय के किसी ऐसे न्यायाधीश से. जो उच्चतम न्यायालय का न्यायाधीश नियुक्त होने हेतु सम्यक रूप से अहित है और जिस भारत का मुख्य न्यायमूर्ति नामनिर्दिष्ट करे. न्यायालय की बैठकों में उतनी अवधि के लिए, जितना आवश्यक हो, तदर्थ न्यायाधीश के रूप में उपस्थित रहने के लिए लिखित रूप में अनुरोध कर सकेगा। इस प्रकार नामनिर्दिष्ट न्यायाधीश का कर्तव्य होगा वह अपने पद के अन्य कर्तव्यों पर पूर्विकता देकर उस समय और उस अवधि के लिए, जिसके लिए उसकी उपस्थिति अपेक्षित है, उच्चतम न्यायालय की बैठका में, उपस्थित हो और जब वह इस प्रकार से उपस्थित होता है तब उसको उच्चतम न्यायालय के न्यायाधीश का सभा अधिकारिता, शक्तियाँ और विशेषाधिकार होंगे किन्तु उसे अन्यथा उस न्यायालय का न्यायाधीश नहीं माना जाएगा।

उच्चतम न्यायालय की बैठकों में सेवानिवृत्त न्यायाधीशों की उपस्थिति - इस अध्याय में किसी बात के होते हुए भी, राष्ट्रीय न्यायिक नियुक्ति आयोग, किसी भी समय, राष्ट्रपति की पूर्व सहमति से किसी व्यक्ति से, जो उच्चतम न्यायालय या फेडरल न्यायालय के न्यायाधीश का पद धारण कर चुका हो या जो उच्च न्यायालय के न्यायाधीश का पद धारण कर चुका हो और उच्चतम न्यायालय का न्यायाधीश नियुक्त होने हेतु सम्यक रूप से अर्हित है, उच्चतम न्यायालय के न्यायाधीश के रूप में बैठने और कार्य करने का अनुरोध कर सकेगा और प्रत्येक ऐसा व्यक्ति, जिससे इस प्रकार अनुरोध किया जाता है, इस प्रकार बैठने और कार्य करने के दौरान, ऐसे भत्तों का हकदार होगा जो राष्ट्रपति आदेश द्वारा अवधारित करें और उसको उस न्यायालय के न्यायाधीश की सभी अधिकारिता, शक्तियाँ और विशेषाधिकार होंगे किन्तु उसे अन्यथा उस न्यायालय का न्यायाधीश नहीं माना जाएगा।

परन्तु जब तक यथापूर्वोक्त व्यक्ति उस न्यायालय के न्यायाधीश के रूप में बैठने और कार्य करने की सहमति नहीं दे देता तब तक इस अनुच्छेद की कोई बात उससे ऐसा करने की अपेक्षा करने वाली नहीं समझी जाएगी।

उच्चतम न्यायालय का अभिलेख न्यायालय होना – उच्चतम न्यायालय अभिलेख न्यायालय होगा और उसको अपने अवमान के लिए दंड देने की शक्ति सहित ऐसे न्यायालय की सभी शक्तियाँ होंगी।

भाग-III / Part-III

3. निम्नलिखित गद्यांश का संक्षिप्तीकरण अंग्रेजी में कीजिए :

Write a precis in English of the following passage : Marks not printed

Unfortunately there is a great deal of Constitutional illiteracy in our Country. Constitutional studies are not accorded the place they deserve in democracy. Even at law schools and new National Law Universities, too little focus is put on studving the text of the provisions of the Constitution-its background and its working-and too much attention is devoted to what is called “Case Law' containing the gems of the wisdom of judges. Perhaps it is a professional necessity. The law schools have to produce the lawyers who can stand in Courts and cite past decisions of their exalted lordships to show how they have improved upon and embellished the provisions made by the founding fathers. There is considerable myth and misunderstanding about the Constitution and for much of it the Courts are responsible.

To really understand the Constitution, a law student should, as a first step read the words in the text of a Constitutional provision carefully and try to understand their normal natural meaning. In Keshavanand Bharti case, the Supreme Court also said that unless otherwise indicated, every word is supposed to have used in its normal or ordinary connotation and should be given the plain common sense meaning. Suprprisingly, while interpreting the Constitution and the laws, the Supreme Court itself does not always seem to do that. The purpose of interpretation is to ascertain the intent of the framers from the words used. We must go by what the Constitution says and not by what judges say. The need is to critically evaluate, the interpretations made including those by the judges.

The doctrine of Basic Features of the Constitution is a relatively recent innovation in India. It is a judicial invention and a produce of what is termed as creative jurisprudence'. Naturally it makes a difficult and delicate theme to study. Constitution of a country is its functional law and lays down the basic features of its polity. Every provision of the Constitution is the basic law of the land. Its provision can hardly be so divided as to make some parts of the Constitution basic and others peripheral a some more basic and others less so. The Constitution determines the basic structure of the political system, establishes the organs of the state and defines and delimits their jurisdictional realms and responsibilities and regulates their relationship with each other and with the people All the three organs, including judiciary, are accountable to the people, who are the ultimate sovereign. Each organ has to discharge its duties only within the domain assigned to it. Ultimately, no institution, however supreme, is above the people. Parliament is not sovereign and the Supreme Court is not Supreme except in its own domain. Neither of the three-Executive, Legislature and Judiciary-can arrogate itself a position superior to the collective sovereign will of the people to which they are and must at all times remain totally responsible and accountable for the discharge of their duties. Every act of the Executive, Legislature and the Judiciary has to be tested on the alter of the Constitution and the will of the people for its validity and legitimacy.