

NLUA
NATIONAL LAW UNIVERSITY, ASSAM
B.A., LL.B. (Hons.): IV Year – VIII Semester: Academic Year: 2014-2015
Mid Semester Examination (March, 2015)
8.1 PRINCIPLES OF LEGISLATION AND
INTERPRETATION OF STATUES

Time: **1 Hr. 30 Minutes**

Total Marks: **30**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer any three questions from the following. All questions carry equal marks.

1. In the process of making law what are the broad ideas and concepts that the legislator has to keep in mind. In this regard discuss the pertinent concepts in the light of the Theory of Legislation as propounded by Bentham.
2. Discuss and distinguish the significance of interpretation of statute in the light of the ancient *mimansa* rule of interpretation and in the light of the cardinal rule of interpretation as propounded by Maxwell.
3. "...Let the judges also remember, that Solomon's throne was supported by lions on both the sides, let them be lions, but yet lions under the throne, being circumspect that they do not check or oppose any points of sovereignty".- Lord Chancellor, On Judicature.

In the light of the above given statement explain and elaborate the role the judges in interpretation of statute.

4. Mr. Shanta was an Assistant Manager of a private sector bank X located in Guwahati. On May 04, 2013 he was by the management sent to Goalpara district of Assam for one week orientation programme from May 05 – 12, 2014 to promote, educate and attract people to importance of banking services. Mr. Shanta before completing his task came back to Guwahati on May 06 2015. Later on being counseled by some of his well wisher he realized that such assignment was vital for his promotion to be become a manager so reliaising it he requested the management to give him another assignment. The management did not entertain his concerns. Owing to this Mr. Shanta became very suspicious towards the management; he became a recluse and never attended office regularly from that day on wards. According to the management he was on an unauthorized leave from June 11, 2014 till February 10, 2015. On 13 February he rejoined office only to invite media to the Guwahti office of the Bank X to give orchestrated interview that the bank X exploiting its employee and also, it was in a shoddy deal with a company which under CBI investigation for Chit fund. The management took strong view of the issue, thus on February 12, 2015 came up with an office order with immediate effect that on exceptional circumstances job can be terminated without any prior notice on the following grounds:
 1. On unauthorized leave.
 2. Indulging in anti establishment activities.
 3. Employee becoming a liability to the bank for the above said rules.

According to the management it was found that Mr. Shanta was on an unauthorized leave, also, his interview to the media was a proof that he was involving himself in anti establishment activities and thus it was found to be a fit case that his job was terminated on the above said grounds. In his defense Mr. Shanta alleged that he was appointed by the Board of directors of X and thus his job cannot be terminated by the management which was an inferior body thereby invoking violation of A.14, A.21 and A. 311 of the Constitution of India. He further defended that he was not been given due hearing and that he was dismissed unceremoniously in violation of natural justice and the management was unnecessarily victimizing him. Also, he prayed that his salary from June 11, 2014 onwards be released.

Imagine that you are judge and this came to your court for hearing, relying on decided cases implore and explain the principles of interpretation applicable in the given case.

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8.2 TAXATION LAW

Time: **1 Hr. 30 Minutes**

Total Marks: **30**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer three questions from the following. The Q. No. 1 is compulsory. All questions carry equal marks.

1. Mr. Abraham worked with Siemens, Germany and drawing his salary of DEM 3882 (German currency) per month. BHEL sought his services and engaged him to work for BHEL in India. Mr. Abraham came to India and worked for BHEL for a period of 1.5 years in India on the terms of payment of daily allowance of Rs.500 per month. Discuss his residential status as well as computation of total income received by Mr. Abraham.
2. Discuss the relevance of canons of taxation and principles of taxation with specific reference to contribution of Adam Smith and Kautilya.
3. Briefly narrate the history of taxation in India and various types of taxes relevant to the study of taxation law.
4. Tax and fee are different concepts. Explain with the help of suitable case laws.

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8.3 ALTERNATIVE DISPUTES RESOLUTION SYSTEM

Time: **1 Hr. 30 Minutes**

Total Marks: **30**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
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Answer the following questions. All questions carry equal marks.

1. In *Afcons Infrastructure Ltd v. Cherian Varkey Construction Co. (P) Ltd*, (2010) 8 SCC 24, the Supreme Court has extensively dealt with the provision of S. 89 of the Civil Procedure Code, 1908 and the related provision of Or. X, rr. 1-A to 1-C of the Civil Procedure Code, 1908.
 - a. Explain Or. X, rr. 1-A to 1-C of the Civil Procedure Code, 1908.
 - b. Is the Settlement in the ADR process binding in itself? Cite reasons for your answer.
2. “The Preamble of the *The Arbitration and Conciliation Act, 1996*, makes it absolutely clear that the Parliament has enacted the 1996 Act, almost on the same lines of the Model law.
 - a. State the provisions which have been made in *The Arbitration and Conciliation Act, 1996* which are not to be found in the Model Law.
 - b. What was held by the Supreme Court in *Sundaram Finance Ltd v. M/s NEPC India Ltd*, (1999) 2 SCC 565, with respect to the present Act of 1996 and the Model Law.
3. The *Arbitration Act, 1940* suffered with serious defects. Explain how *The Arbitration and Conciliation Act, 1996* has removed the defects.

OR

“Various Regulations were framed by the East India Company to formulate a system of Arbitration in India which would be in consonance with British jurisprudence”. Explain the Regulations framed by the British in India.

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B.A., LL.B. (Hons.): IV Year – VIII Semester: Academic Year: 2014-2015
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**8.4 CR.2 ADMINISTRATION OF CRIMINAL JUSTICE SYSTEMS,
NATIONAL SECURITY LAWS, INSURGENCY MOVEMENTS AND
TERRORISM**

Time: **1 Hr. 30 Minutes**

Total Marks: **30**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer three questions from the following. Q. No. 1 is compulsory. All questions carry equal marks.

1. Ms. Abel is arrested without warrant by a police officer. Discuss Ms. Abel's rights under Criminal Procedure Code vis-à-vis duties of the police officer under the Police Act, 1861.
2. "Article 20 of the Constitution of India, 1950 is a combination of rights of the accused". Explain Article 20 with help of suitable case laws.
3. "Preventive Detention is fundamentally and qualitatively different from imprisonment after trial and conviction in a criminal court." Discuss with specific examples the minimum standards and minimum procedures to be observed in preventive detention cases.
4. *A. K. Gopalan v. State of Madras* AIR 1950 SC 27 is an important decision as far administration of criminal justice system is concerned. Discuss.

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8.4 IP.2 LAW RELATING TO PATENTS AND DESIGNS

Time: **1 Hr. 30 Minutes**

Total Marks: **30**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer any two questions from the following. All questions carry equal marks.

1. Dr. Nandy invented a surgical instrument which performs chemotherapy along with surgery. This instrument would be helpful to treat the cancer patients across the world. So Dr. Nandy wants to patent his invention in as many countries he can. Dr. Nandy approached you and requested you to file Patent Cooperation Treaty (PCT) application for his invention. Give your expert opinion on the following questions raised by him:
 - a. Whether his idea to file PCT application is right and what are the other alternative options available to him?
 - b. Explain the detail procedures to be followed at various stages for seeking patent protection under PCT system.
 - c. What are the advantages and disadvantages of PCT system?

(3+8+4 marks)

2.
 - a. Discuss the basic criteria to be followed for grant of a patent in India.
 - b. Discuss the points taken into consideration while granting compulsory license by the Indian Patent Office in the Natco Pharma ltd. v. Bayer Corporation (March 2012)

(7.5+7.5 Marks)

3. Discuss the concept of 'Parallel Imports'. How does the doctrine of 'Exhaustion' impose certain limits on the patentee? What are the advantages and disadvantages of parallel imports?

(6+5+4 marks)

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