

UTTARAKHAND HIGHER JUDICIAL SERVICE EXAMINATION 2008 II

Paper No. 1

Time Allowed: 2 Hours

Max. Marks: 100

Note:

All questions are COMPULSORY.

Part One

50 marks

1. Explain briefly (in about 25-30 words) the meaning of **any of the five** legal terms/phrases given below.

-- There is 1 mark for each – **total 5 marks**

- i. Lex Situs
- ii. Lis Pendens
- iii. "Ganga Clause"
- iv. Vested right
- v. Philadelphia lawyer
- vi. Plea bargain
- vii. Rule of necessity
- viii. Gravamen
- ix. Animus manendi
- x. Animus belligerendi

2. What is the meaning of the following legal maxims? (You have to answer **only five**)

-- There is 1 mark for each – **total marks**

- i. Actus curiae neminem gravabit
- ii. Culpa poena par esto

- iii. Ignorantia juris non excusat
- iv. Lex aequitate gaudet
- v. Jura publica anteferenda privatis
- vi. Nemo dat qui non habet
- vii. Rex nunquam Moritur
- viii. Nemo est supra reges
- ix. Quod initio non valet, tractu temporis non valet
- x. Nihil habet forum ex scena

3. (i) What do you understand by the following terms of medical jurisprudence ?(Answer **any three only**)

- Each carries 2 marks - **total 6 marks.**

- A. Rigor Mortis
- B. Asphyxia
- C. Senile dementia
- D. Withdrawal symptoms
- E. Brain mapping
- F. Polygraph

(ii.) Answer **any one** of the following:

- **Total 4 marks**

- A. What is the main difference between an ante mortem abrasion and a post mortem abrasion?
- B. What are the general features in a death caused by poisoning?

4. Answer **any five** (in about 20 to 30 words).

- There are 2 marks for each - **total 10 marks**

- A. What do you understand by the expression "the medium is the message"?
- B. What is so unique about "google"?
- C. What do you understand by "software"?
- D. What do you understand by "hardware"?
- E. What is "word processing"?
- F. What do you know by the term "hacking"?
- G. What is a 'spam'?
- H. What is USB?
- I. Who owns the internet?
- J. When does an e-mail bounce?

5. (A) I.R. Coelho Vs. State of Tamilnadu [(2007)2 SCC 51] is a recent Constitutional Bench judgment on which aspect of the Constitution. (250 words)

or

(B) Recently the Parliament of India has passed an Act to curb terrorism in the country. In the past such Acts have been enacted and subsequently repealed. Give your comments on the subject whether we truly need such law in this country? If so, why.

- Total marks 10

6. (A) "We the people of India adopted, enacted and gave to ourselves the Constitution of India on November 26, 1949". Trace the constitutional legal history from post Mutiny (1857) onwards, till the enactment of the Constitution.

Or

(B) What do you understand by 'judicial activism'? Trace the evolution of this concept through various judgments of the Supreme Court; post Keshwanand Bharti case.

- Total marks 10

Part Two

(Total Marks - 50)

A. "Without courage there is no truth and without truth there can be no other virtue". - give expression to this thought in about 300 words.

- Total marks 15

B. Write a précis of the following paragraph:

"For nearly fifty years Akbar ruled India, from early in 1556 to the end of 1605. This was the period of the revolt of the Netherlands in Europe, and of Shakespeare in England. Akbar's name stands put in Indian history, and sometimes, and in some ways, he reminds one of Ashoka. It is a strange thing that a Buddhist Emperor of India of the third century before Christ, and a Muslim Emperor of India of the sixteenth century after Christ, should speak in the same manner and almost in the same voice. One wonders if this is not perhaps the voice of India herself speaking through two of her great sons. Of Ashoka we know little enough, except what he has himself left carved in stone. Of Akbar we know a great deal. Two contemporary historians of his Court have left long accounts, and the foreigners who visited him, and especially the Jesuits who tried hard to convert him to Christianity, have written at length.

He was the third in the line from Babar. But the Moghals were still new to the country. They were regarded

as foreigners and their hold was military. It was Akbar's reign that established the Moghal dynasty and made it of the soil and wholly Indian in outlook. It was in his reign that the title of Great Moghal came to be used in Europe. He was very autocratic and had uncontrolled power. There seems to have been no whisper in India then of checking a ruler's powers. As it happened, Akbar was a wise despot, and he worked hard for the welfare of the Indian people. In a sense he might be considered to be the father of Indian nationalism. At a time when there was little of nationality in the country and religion was a dividing factor, Akbar deliberately placed the ideal of a common Indian nationhood above the claims of separatist religion. He did not wholly succeed in his attempt. But it is amazing how far he did go and what great success attended his efforts.

And yet Akbar's success, such as it was, was not due entirely to his unaided self. No man can succeed in great tasks unless the time is ripe and the atmosphere is favourable. A great man often forces the pace and creates his own atmosphere. But the great man himself is a product of the times and of the prevailing atmosphere. So Akbar also was the product of the times in India."

- Total marks 15

C. Translate the following paragraph into English.

किताब से आदमी की दूरी बढ़ाने की दिशा में पिछले सालों काफ़ी जोरदार कोशिशें हुईं और कहना न होगा कि बड़ी हद तक कामयाबी भी मिली है। लक्ष्य शायद यह है कि गरीब आदमी गरीब तो बना रहे पर कहीं ऊपर से पढ़-लिख न जाए। सरकार अपढ़ बेकारों से निपट सकती है, पढ़े-लिखे बेकारों से निपट सकती है पर समझदार और तथ्य जाननेवाले बेकारों से नहीं निपट सकती। वे सिरदर्द बन जाते हैं प्रशासन के लिए। किताबें सरकार के शत्रुओं की सहायक हैं, और आगे ज्यादा हो सकती हैं। इसलिए ऐसे कदम उठाये जाने जरूरी हैं जो शत्रु और उसके सहायकों के

बीच दरार पैदा करें । वह वक्त शुरू हो गया है जब एक गरीब और मध्यमवर्गीय किताबों के बारे में सुनकर रह जाएगा पर उन्हें पढ़ नहीं पाएगा, देख नहीं पाएगा । किताबें उसकी जिन्दगी की लड़ाई में वैचारिक स्तर पर सहायक नहीं हो पाएंगी । व्यवस्था को इससे क्या गरज कि वह उससे लड़नेवालों को वैचारिक रसद सस्ते दामों में पहुँचाने का इन्तजाम करे या अगर किताबों का भूकसद मनोरंजन और रोजमर्रा के तनाव से मुक्ति है तो भी क्यों इस तरफ ध्यान दिया जाए । इसके लिए सस्ते ट्रांजिस्टर हैं जिससे अदना इन्सान सरकारी खबरें, उन खबरों का सरकारी विवेचन और बाकी पूरे वक्त में नये-पुराने फिल्मी गानों से मन बहला अपना खाली समय बिता सकता है । तनाव दूर करने के लिए सेंसर की कड़ी निगाहों से गुजरी फिल्में हैं, टी.वी. है । किताब क्यों ? आखिर किताब ही क्यों ? आप ढेर-ढेर फिल्मी पत्रिकाएँ देखिए और रेखा, हेमा और जीनत के बारे में बातें कीजिए । वक्त ही तो बिताना है, एक जीवन ही तो गुजारना है । किताबों को पढ़े बिना क्या बीत नहीं सकता ? बीतता ही है ? इस देश के अधिकांश लोगों, अधिकांश वोटर्स का बीतता है जो राजनीति की संरचना में मदद कर, सत्ता के निर्माण द्वारा अपने लिए भाग्य-विधाता बनाते हैं । किताबें पढ़ने-लिखनेवाले कुल जमा हैं कितने ? इन मुट्ठी-भर लोगों के वोट कितने ? उनसे फर्क क्या पड़ता है ?

- Total marks 10

D. Translate the following paragraph into Hindi.

There are three types of men in our society - the Priest, the Doctor, and the Lawyer - who are quite unable to view the world with any esteem? They all wear black, perhaps because they are in mourning for all virtues and all illusions. The unhappiest of the three is the solicitor. When a man comes for the priest, he is impelled by repentance, by remorse, by beliefs which make him an object of sympathy, raise him in stature, and give the mediator's soul a certain consolation, so that his task is not without its pleasures: he purifies, he repairs, and he reconciles. But we solicitors, we see the same bad feelings coming into play repeatedly, nothing can improve them, our offices are sewers that can never be swept clean. How

many things have I not learnt in the discharging of my duties! I've seen a father dying in an attic, without a penny to his name, abandoned by two daughters to whom he had given an income of forty thousand pounds! I've seen wills being burnt. I've seen mothers despoiling their children, husbands stealing from their wives, wives killing their husbands by using the love they had kindled in them to drive them to a state of madness or imbecility so they could live at peace with some lover. I've seen women giving to the child of a first marriage tastes bound to lead to its death so they could bequeath their wealth to a love-child. I can't tell you all that I've seen, for I have witnessed crimes against which justice is impotent. At all events, all the horrendous things that novelists think they are making up always fall short of the truth.

- Total marks 10