

Name:

Enrolment No:



**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**

**End Semester Examination, May, 2019**

**Course: Interpretation of Statutes**

**Programme: B.A., LL.B. (Hons.) Energy Law and Criminal Laws**

**Semester: IV**

**Time: 03 hrs. CC:CLCC 2006**

**Max. Marks: 100**

**Instructions:**

**SECTION A (attempt any five)**

S. No.		Marks	CO
Q 1	Can a taxing statute be given retrospective operation?	2	CO 1
Q 2	What is the value of a text book as an aid to find out the intention of legislature?	2	CO 1
Q 3	What is the importance of headings in interpretation? Give an example	2	CO 1
Q 4	Explain Noscitur a Sociis.	2	CO 1
Q 5	Explain Pacta Sunt Servanda.	2	CO 1
Q.6	What do you mean by Colorable Legislation?	2	CO1

**SECTION B (attempt all)**

Q 6	What is the effect of repeal of the parent legislation over a delegated law? Justify your answer with appropriate authority?	10	CO 3
Q 7	Discuss the relation between Fundamental Rights and Directive Principles of the state policy. How the courts interpret in case of conflict between the two? Justify your answer by appropriate examples and decided cases.	10	CO 2

**SECTION-C (attempt all)**

Q 9	“If two constructions are possible, one which suppresses the mischief and advances the remedy should be given.” Discuss in the light of Heydon’s Rule as applied by Indian Courts in various judicial decisions	10	CO 4
Q 10	Bring out the difference between penal and remedial statutes and rules of Interpretation applicable to them.	10	CO 3

**SECTION-D (attempt all)**

<p>Q 12</p>	<p>The Constitution (One Hundred and Third Amendment) Act, 2019 was enacted to provide for the advancement of “economically weaker sections” of citizens. Article 15 of the Constitution prohibits discrimination against any citizen on the grounds of race, religion, caste, sex, or place of birth. However, the government may make special provisions for the advancement of socially and educationally backward classes, or for Scheduled Castes and Scheduled Tribes. The Bill seeks to amend Article 15 to additionally permit the government to provide for the advancement of “economically weaker sections”. Further, up to 10% of seats may be reserved for such sections for admission in educational institutions. Such reservation will not apply to minority educational institutions.</p> <p>Article 16 of the Constitution prohibits discrimination in employment in any government office. However, the government can allow reservation for any “backward class of citizens”, if they are not adequately represented in the services under the state. The Bill seeks to amend Article 16 to permit the government to reserve up to 10% of all posts for the “economically weaker sections” of citizens. The reservation of up to 10% for “economically weaker sections” in educational institutions and public employment will be in addition to the existing reservation. The central government will notify the “economically weaker sections” of citizens on the basis of family income and other indicators of economic disadvantage.</p> <p>A petition is filed in the Supreme Court challenging the validity of the 103<sup>rd</sup> amendment, on the following grounds:</p> <ol style="list-style-type: none"> <li>a) That it is violation of the Supreme Court judgment in Indira Sawhney Vs. Union of India wherein the apex court ruled that no more than 50% of the total seats can be reserved.</li> <li>b) That it dilutes the spirit of equality enshrined in Article 14 of the Constitution</li> <li>c) That it will decrease the quality of manpower available in public employment, leading to economic loss to the country.</li> <li>d) That it contravenes the fundamental right contained under article 19 (1) (g)</li> </ol> <p>Evaluate the contentions and conclude by interpreting the relevant provisions. Justify your answer. (for relevant provisions, annexure may be referred to)</p>	<p>25</p>	<p>CO 4</p>
<p>Q 13</p>	<p>Mr. ‘A’ was charged of having committed the offence of ‘adultery’ under section 497 of the Indian Penal Code. Mr. ‘A’ lost the case in the trial court and despite all efforts, his conviction was maintained by the appellate court also. Having exhausted all other appellate options, he filed a petition in the Supreme Court, seeking special leave to appeal. He questioned the constitutionality of the charging section on the following grounds:</p>	<p>25</p>	<p>CO 4</p>

	<p>a) That it violates the fundamental right to equality under Article 14. Women are not having any locus against the erring husband and all the rights are available to men.</p> <p>b) That it violates the freedom to make sexual choices which is included in the right to life and right to privacy.</p> <p>Evaluate the contentions and conclude by interpreting relevant provisions. Also refer to latest judgment of relevance and analyze them scholarly and logically. (for relevant provisions, annexure may be referred to)</p>		
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**Annexure:**

**Relevant Legal Provisions**

**Constitution of India**

**Article 14: Equality before law:**

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

**Article 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth—**

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to— (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category. Explanation.—For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.’.

**Article 16. Equality of opportunity in matters of public employment.—**

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. 26

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services

under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

**(4B)** Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.

**(5)** Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

**(6)** Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category."

**Article 19. Protection of certain rights regarding freedom of speech, etc.—**

(1) All citizens shall have the right—

**(a)** to freedom of speech and expression;

**(b)** to assemble peaceably and without arms;

**(c)** to form associations or unions [or co-operative societies];

**(d)** to move freely throughout the territory of India;

**(e)** to reside and settle in any part of the territory of India; and

**(g)** to practise any profession, or to carry on any occupation, trade or business.

**(2)** Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

**(3)** Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

**(4)** Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

**(5)** Nothing in sub-clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

### **Article 21: Protection of life and personal liberty**

No person shall be deprived of his life or personal liberty except according to procedure established by law.

### **Indian Penal Code**

**Section 497. Adultery.**--Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

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**End Semester Examination, May, 2019**

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**Programme: B.A., LL.B. (Hons.) Energy Law/Criminal Law**

**Semester: IV**

**Time: 03 hrs.**

**Max. Marks: 100**

**Instructions:**

**SECTION A (Attempt all)**

S. No.		Marks	CO
Q 1	Can a penal statute be given retrospective operation?	2	CO 1
Q 2	What is the difference between 'ejusdem generis' and 'noscitur-a-sociis'?	2	CO 1
Q 3	In which case passive euthanasia was held permissible for the first time in India?	2	CO 1
Q 4	What is understood by 'jus dicere'?	2	CO 2
Q 5	In which case 'medical negligence' was declared as 'defficiency in service' under Consumer Protection Act?	2	CO 1

**SECTION B (Attempt all)**

Q 6	What is meant by revival of legislation? Explain with examples and relevant cases.	10	CO 2
Q 7	What is 'doctrine of eclipse'? Discuss its applicability over post-constitution laws.	10	CO 2

**SECTION-C(Attempt all)**

Q 9	Is the Supreme Court bound by it's own judgments. Refer to relevant provisions, analyze them and justify your answer with relevant case laws and appropriate logic.	10	CO 3
Q 10	Discuss the principle of implied powers with appropriate examples and case laws	10	CO 3

**SECTION-D (Attempt all)**

Q 12	The state government of Uttarakhand issued an employment notification for certain posts. Out of the total number of posts, 50% seats were kept reserved for the scheduled caste, scheduled tribe and other backward caste candidates.	25	CO 4
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	<p>The notification also provided that the reserved category candidates, falling within creamy layer, shall not be entitled to the benefit of reservation.</p> <p>A candidate who had claimed reservation under scheduled caste category, had attached relevant certificates related to caste but had not submitted the family income certificate to establish that he was outside creamy layer.</p> <p>As notified in the advertisement, his application form was not treated within scheduled caste category and the candidate was informed through a letter.</p> <p>The candidate challenged the employment notification on the following grounds:</p> <ol style="list-style-type: none"> <li>a) That the notification is ultra vires the constitutionally permitted reservation policy of the country. A scheduled caste candidate can not be denied the benefitted of reservation.</li> <li>b) That the idea of creamy layer was propounded in the Indira Sawhney judgment and in that the issues were related to OBC reservation only. The concept laid down in this judgment can not be stretched and applied over scheduled caste candidates.</li> <li>c) That the publication of scheduled castes is done at national level; so a state government has no authority to make rules including, excluding or affecting the reservation of scheduled castes.</li> </ol> <p>Evaluate the contentions and conclude by interpreting relevant provisions. Also refer to latest judgment of relevance and analyze them scholarly and logically.</p> <p>(for relevant provisions, annexure may be referred to)</p>		<b>CO 4</b>
Q 13	<p>The State of Uttarakhand passed a law establishing educational tribunals to decide the cases related to educational institutions. These tribunals, at district and state levels, were held competent to adjudicate all matters related to or pertaining educational institutions. It covered disputes related to admission, fixation of fees, reservation of seats in admission, recruitment of teachers and staff, disciplinary or departmental proceedings etc. The Act also had a provision that the order of the tribunal shall be binding and final. No further appeal from the order of the tribunal could be filed.</p> <p>Mr. Prabh applied for admission to BALLB in the Himalayan University, Dehradun. His name appeared in the list of qualified candidates but he was not admitted. On repeated requests, he was informed simply that he has not qualified the cut off. Mr. Prabh sought his marks and the cut off marks under RTI Act. Having received the response he observed that his marks were equal to the cut off score. He challenged his denial of admission as an irregularity in the admission procedure. The case was filed in the state educational tribunal. The tribunal observed that the University had laid</p>	<b>25</b>	<b>CO 4</b>



down proper guidelines for admissions. These guidelines had clear mention of who to be admitted on the last seat, in case of many candidates on the same score. It was also observed that these rules were not violated in the present case. So the petition was disposed of without giving any remedy to the petitioner.

Then Mr. Prabh filed a writ petition in the Nainital High Court challenging the entire proceedings on the ground of natural justice.

The Respondent contended that the petition is not worthy of being entertained because:

- i) The Act had declared the decision of the Tribunal as final and no further appeals were allowed.
- ii) The Petition was filed under article 227(Refer to the annexure), which is an original jurisdiction and the petitioner was trying to use it as appellate jurisdiction
- iii) That right to appeal is a statutory right and not an inherent right. So appeal can be filed only when provided by a law.

The petitioner contended that the jurisdiction under article 226, 227 and 136 could not be excluded or restricted by the said Act. Therefore the jurisdiction was available and the petition stands.

Interpret the given provisions of the imaginary act as mentioned and also interpret articles 226 & 227 to decide whether the petition should be entertained or not.

(for relevant provisions, annexure may be referred to)

## **Annexure:**

### **Relevant Legal Provisions**

#### **Constitution of India**

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(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to— (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category. Explanation.—For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.’.

**Article 16. Equality of opportunity in matters of public employment.—**

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. 26

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category."

#### **Article 226: Power of High Courts to issue certain writs:**

(1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without—

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

#### **Article 227: Power of superintendence over all courts by the High Court:**

(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

(a) Call for returns from such courts;

(b) Make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(c) Prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practicing therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

#### **Article 136. Special leave to appeal by the Supreme Court.—**

(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces