

Question No.
प्रश्न संख्या

UPSC

UPSE CSE 2025

AIR - 267

MM-125 marks

Time - 30 mins

Test-3 (POLITY)

General Studies
Subjective Assessment

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VAJIRAM & RAVI

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Sir/Ma'am,
I would highly appreciate if you would
be able to provide comprehensive
comments and Remarks -



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①
Ans)

The recent amendment done in the context of NCT of Delhi Act via the UNCTD (Amendment) Act 2021 has again caused an havoc b/w the LG - CM Relations.

UNCTD (Amendment) Act 2021 Features -

- ① The 'government' in any law legislated by the legislature of Delhi would imply - LG
- ② The legislature of Delhi or any of its committee cannot intervene in matters as to -
 - a) Day to day Administration of Delhi.
 - b) No intervention in the executive Administration

"Gouvernance" — The Casualty :

- ① In the tussle b/w the CM and the LG, the repercussions are being faced by the people.
- ② An Elected CM and the CoM have been devoid of their powers in context to day to day Administration, this directly

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hampers the governance and amounts to betrayal of public mandate.

- ③ the tussle b/w LG and CM causes delay in decision making causes → suffering for the people.
- ④ the recent ordinance on transfer of "services" to the NCSSA Authority would hamper the service delivery as CM would not be able to direct the civil servants on needs of the people.
- ⑤ Just because of political mismatches, the people of Delhi would not be able to get what they aspired while casting their mandate.

Way forward →

- deliberations b/w Delhi govt and LG should be there to avoid confrontations.
- LG should only act on aid and advice of CM and CoM - SC Judgment 2018
- governance of people should never be affected in any course just because of political considerations.

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②
Ans)

Parliamentary sovereignty refers to the supreme legislative power of the parliament without any interference from external entities.

The Basic Structure doctrine introduced by the SC in Keshavananda Bharati case 1973

limits the parliamentary sovereignty in the case of amending basic features

such as — Fundamental Rights
SC power & Jurisdiction, etc

Though this isn't the only restriction on the parliamentary sovereignty, the others are →

① Art. 13 → the law violating Part - III → would become void to the extent of ~~jurisdiction~~ contravention of Part - III.

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② Schedule - VII (Art-246(1))

Parliament cannot legislate on matters of State List.

Ex → Police, land, Public order, etc.

③ Difficult amending procedure for amending federal features which requires state ratification as well (>50%)

Ex • President Election
SII-VII amendment

④ Difficult removal of President, SC Judges and other Constitutional post which restricts arbitrary action.

Parliamentary sovereignty is important but it should not lead to arbitrary action of the legislature and ∴ certain restrictions become important to preserve the rights of the people and sanctity of the constitution.

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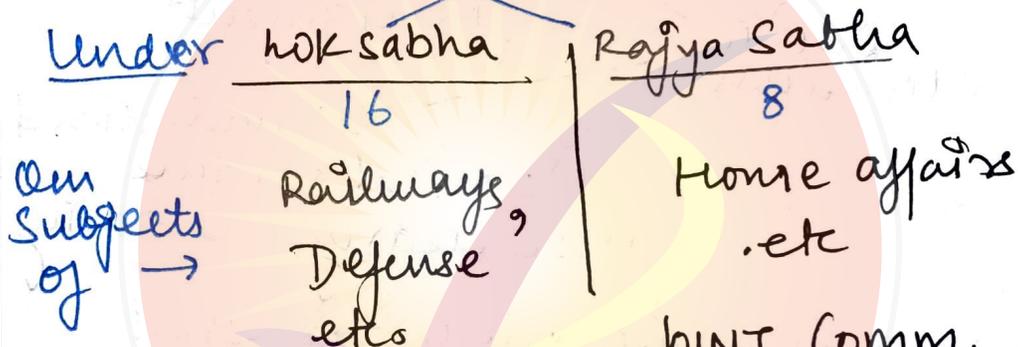
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(3)
Ans)

the Lok Sabha Rules of procedure and conduct of Business Rule 331 C provides for the Departmentally Related Standing Comm. (DRSC).

DRSC Composition

Total DRSC → 24



Comp. of each DRSC (members)

DRSC = 21 members + 10 members
(31 mems) Lok Sabha Rajya Sabha.

IMPORTANCE —

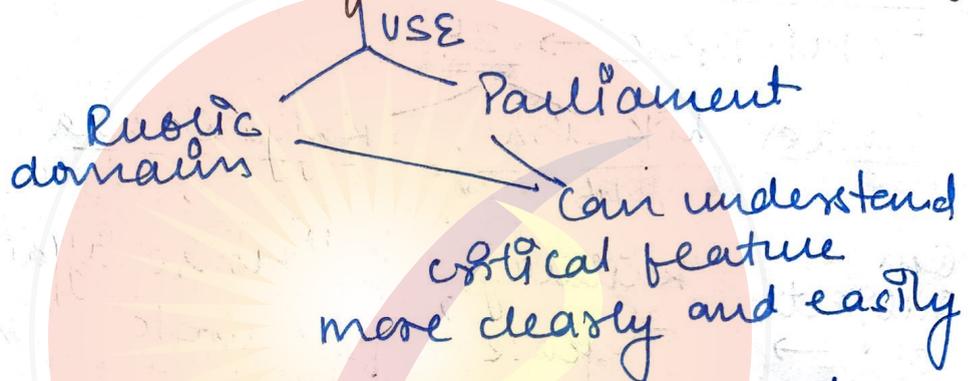
- ① Deep discussions on the matters prescribed to it by the parliament.
- ② Expense of MP's → is utilized for detailed analysis of legislative proposals.

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- (3) The Budget proposals ministry wise are sent to DRSC's and they are responsible for diligent scrutiny and inspection of policies
- (4) they generate authentic and rich source of data and knowledge



- (5) They examine every referred legislative proposal clause by clause and analyse its pros and cons on society leading to comprehensive and multidimensional law making taking into account various stakeholders.

- (6) Members from various backgrounds induce diversity of thought and ensure collective legislation

Though DRSC's are very essential, the Bill referred to DRSC in 16th LS were just 27% which is very low therefore, the need is to increase the deliberation on every proposal and enhance quality legislation with consideration of every stakeholder.

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(4)
Ans

Transparency, accountability and moral conduct are the fundamental features that a public Representative should have.

In UK, ~~disrespect~~ disrespective of the party membership, the MP has autonomy to question and challenge their party leadership, which ensures —

① majority is not perceived as a key to circumvent accountability.

② uphold the interest of the constituency they come from.

③ Question the government, to ensure that it takes positive actions to resolve it.

But in India, such autonomy to question and challenge the leadership is not present because →

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① It may spoil the MP's image in party's eyes → he may be dropped from future elections.

② he may be disqualified under anti-defection law (Sch-X) within the ambit of anti-party activities.

③ he may be side-lined and would face repercussions in intra-party meetings.

A balance b/w defective attributes and autonomy to question should be struck to ensure that the govt's accountability is enhanced disrespective of party background and the interests of the constituency is upheld.

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Ans

The Recent disqualification of Shri. Rahul Gandhi, a Congress leader within the provision of Sec 8(3) of RPA'1951 has raised the discussions on the provisions of RPA'51 regarding disqualification.

Provisions of Disqualifications:-

① Sec 8

Disqualification due to conviction in certain offences. This is further divided into 3 parts.

Sec. 8(1) - only CONVICTION Required

Disqⁿ → Jail Term + 6 Yrs

Sec 8(2) - CONVICTION + 6M Jail term

Disqualⁿ → Jail term + 6 Yrs. min.

Sec. 8(3) - CONVICTION + min. 2Yr. Jail Term

Disqualⁿ → Jail term + 6 Y

Examples of offences under Sec. 8

Sec 8(1)

NDPS '1985
PCRA '1955
PCA '1988

Sec 8(2)

Drugs &
Cosmetics
Act '1940
ESA '50

Sec 8(3)

Defamation
(ex. Rahul Gandhi)
all other
offences

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guilty of corrupt practices
6 yrs disqⁿ

③ Sec 9

guilty of corruption and disloyalty
5 yrs disqⁿ

④ Sec 10

holding position in a company
with govt share > 25% / 0

⑤ Sec 11

Failure + over ~~ex~~penditure ^{offens}
election ^{to lodge} ~~to~~ ^{the limit}
election expense ^{mandated by}
ECI

Disqⁿ — 3 yrs & RAVI

the disqualification provisions are
very important for holding
the election contestants at
moral, legal and ethical
responsibility and to uphold
the sanctity and heritage of
the legislative premises.

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Ans

The Recent upheaval caused by the removal of certain sections of the speech by the Tamil Nadu Governor without consent of CM and CoM has raised debates on the constitutional mandate of the governor in context to his conduct.

Constitutional Provisions -

Art. 176 → the Governor has to address the the joint session of state legislature if 2 house are there or the legislative assembly on 2 occasions →

- ① 1st session of the year
- ② 1st session after general elections

Art. 169 → the governor should act on the aid and advice of the CM and the CoM.

Supreme Court's Judgement →

SC in Shamsher Singh v/s State of Punjab has said that Governor should act ~~on~~ the aid and advice of the CM and CoM.

Perspectives unboxed →

① the mandatory address of the Governor is basically the policy and propositions of the duly elected government for the coming years or the achievements it has attained. ∴ the Governor should act in the similar way because it is a way through which the COM headed by CJI tries to spread their policy and actions taken throughout their membership.

↓
It violates the constitutional mandate under Art. 164 → "aid and advice"

is against the whole idea of "Parliamentary democracy". ∴ -

Governors should uphold these principles in their conduct.

② the Defensive Argument: —

the Governor's post is a "constit-
-utional post" as Supreme Court has said many times, ∴ this position hold very high

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esteem and honour which dwells us to think in the manner that should a honourable constitutional post → be "compelled to read a speech"? shouldn't he be at least given discretion in reading what he wants or not? Should his RIGHT to free speech and expression under Art. 19(1) be respected?

The answer lies in the balance between constitutional mandate and discretionary jurisdiction, Governor should act in the manner of aid and advice but in cases where the state government goes a little above for - eg. - false claims, unachievable aspirational proposals, the Governor should have his discretion to avoid certain sections of address

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Ans)

The centre - state relations forms the bedrock for holistic national development taking into account the national interest and mixing/ blending it with regional aspirations giving a magnificent federal equilibrium.

Art. 238 - 286 part XII + XIII
strives to strike a equilibrium
b/w states and centres in
dimensions of legislation
Administration
Financial

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Compromise with federal equilibrium
-um" →

① misuse of amending powers
of Parliament under Art. 368
to transfer subjects (state,
concurrent) → to union list
or state → concurrent list

Ex. 42nd CAA '76
wildlife, Education → concurrent
list

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② misuse of Art-249 → legislation on state subjects with Rajya Sabha approval → undermines state interests.

③ ^{misuse of} State emergency - Art-356
(President Rule)

hegemony of union over states if differential political parties.

Ex. 1983 - emergency imposed in MP, Punjab, etc. because they were under congress rule.

④ misuse of Art-365

No definition of "Directive" in Constⁿ → misinterpretations may lead the center to impose Art-356.

The center-state relations should have the highest degree of mutual cooperation because ultimately people of the state are the sufferers hence, the relations should be bound to mutual respect and uphold constitutional mandate of the noble luminaries who framed it.

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⑧

Ans)

There are certain privileges which are accorded to the parliament collectively and certain which are individualistic.

Collective privileges :

- ① It has the power to punish for its contempt.
- ② It has complete right to publish its reports and restrict others to do the same.
- ③ It can prohibit strangers to participate in proceedings (secret meeting)
- ④ Its proceedings cannot be enquired by any court of law.

Individual privileges :

- ① Absolute freedom to speech (Art-105)

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② ~~at~~ Protection from ^{Prosecution} ~~defections~~ when parliament is in session and 40 Days before & after the session.

③ No arrest in the premises of the parliament without permission of the speaker.

Importance for Effective functions
-ing :-

① Parliament is the supreme legislative body of the country hence, to preserve its honour certain privileges should be there.

② prosecution of public represent-
atives during sessions

undermines
interest of the
constituency

injustice to the
people as they
are responsible
for the wrongdoing.

③ As parliament is sovereign body, it has total rights to maintain its affairs free of any external intervention

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④ Law making requires complete understanding, analysis and exposure of the utter TRUTH and facts which may hurt the sentiments or contravene the restrictions on Art 19(1) ∴

Absolute freedom becomes necessary in regards to speech for complete disposal of facts and truth for guiding qualitative legislation.

Privileges of the parliament are very essential for the sovereign, supreme and integrated legislation for the nation.

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Ans)

The Recent ordinance regarding the National Capital Civil Service Authority (NCSA) has raised the questions on the fundamentality & morality of the ordinance making power of the president.

Art. 123 of the constitution provides the president the power to introduce ordinances except when both houses are in session.

Issues with ordinance making power of President :-

① Circumventing of the due legislative procedure in light of apparent unavailability of majority in the Rajya Sabha.

② Blatant misuse and deviation from its original mandate of using it in "urgency or national interest"

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③ Violation of separation of powers — Executive making Law.

④ Perpetual Repromulgation to avoid legislative scrutiny

Exo → Bihar govt.

76 x time Repromulgatⁿ

feasible

⑤ "Arbitrary action of the Executive"

SC's Judgements —

① DC Wadhwa v/s So Bihar '1987

— "Fraud on Constitution" by repromulgating repeatedly.

② Krishna Kant Judgement '2017

— "Against the mandate of the Constitution"

— "the urgency should be described when the parliament comes in session"

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What can President do?

① Though he is bound by the aid & advice of CoM, he can give it back for reconsideration once under Art. 74 → can play a Symbolic role in public view → which then can question ~~the~~ ~~gout.~~ ~~the~~ ~~gout.~~ ~~the~~ ~~gout.~~

② he can deliberate with the CoM to resist from being given such ordinances.

③ he should be endowed with certain powers such as —
 (a) Rather than disuaction, he should ask help from Supreme Court to decide.

the just use of ordinance is very important. as B.R. Ambedkar has rightly said Art 123 is a "necessary evil", the misuse of which ~~can~~ would undermine the mandate of the constitution behind it.

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(10)
Ans)

The recent creation of a selection body for the Electron Commission by the Supreme Court has further strengthened the independence of the constitutional body, under Art. 324.

Estbo

the constitution of selection body

- Chief Justice of India
- Leader of opposition
- Prime minister.

The provisions ensuring the autonomous functioning →

① very difficult procedure for removal. i.e. same as a Supreme Court Judge.

② the salary is charged on the consolidated fund of India.

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③ his emoluments & salary cannot be reduced during his term of office.

④ security of tenure.
54/62 yrs - whichever is earlier.

Certain anomalies which could hinder ECI's independence & effective functionality →

① previous to SC judgement, ECI was appointed by the Executive. ~~to~~ to, alleged appointment of a govt. favouring person.

② No Restriction to further employment under the govt. → can cause conflict of interest.

Disregard of the prevalent anomalies, ECI has established and conducted itself with highest degree of independence and effective

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functionality and have addressed all the issues without any partition and upheld its constitutional mandate. & the legacy of EC like T.N. Seshan is a perfect example of that.

