

**V B.A., LL.B.,**

**SEVENTH SEMESTER**

**PAPER : XXVII  
JURISPRUDENCE**

UNIT-1 Need to study jurisprudence - its relationship with political and power structures and just society

UNIT-2 What is concept? - 2.1. Concept, ideas and notions 2.2 What is a theory - difference between theory, hypothesis, conjecture, opinions.

UNIT-3 What is a norm? 3.1. Differences between maxims, rules, principles and customary rules. 3.2. Differences between primary rules and secondary rules. 3.3. What is a normative system?

UNIT-4 Concept of law, its difference with laws of natural sciences, social sciences, statistics, history. 4.1. Laws of obligations.

UNIT-5 Why laws are obligatory? 5.1. Define and discuss the following legal concepts c Liability, obligation, sanction, coercion, compulsion, duty, estoppel, promise, dharma with case material. 5.2. CONTRACTARIAN THEORIES - general -will theories and free-will theories and autono-mous theories particularly positivist theories connected (development of Austin onwards: Reference to Dworkin, Rawls and Marxian terms of the doctrine of witherning away of State. Including TRANSCENDENTAL THEORIES. 5.3. Whom does the law obligate? Personality: people: State-with particular reference to Directive Principles of State Policy: Locus standi. Randhir. Golaknath and other relevant cases.

UNIT-6 Theories of Authority. 6.1 Types of authority - Legislative, judicial and customary - their binding nature. 6.2. Bindingness with regard to precedent. Determination of ratio and methods of Wanbaugh, Salmond, Goodhart, Simpson's approach in Jacob's case. Also the studying factors of Lewlyn (information to be provided that there is no distinction between making and declaring, basing on Gestalt psychology. (Ref-Peter Brett).

UNIT-7 Limits on Legislative authority. 7.1. Positivist view that there is no limits. Discuss with reference to Austin, Kelsen. Golaknath and

D.C.Wadhwa's case.7.2. Natural law view that the limits are defined by principles of morality or natural justice - the legislation, from whatever source, must be in accordance with such principles. Discuss with reference to Aquinas, Finnis. 7.3. The Rationalis view that the limits are set by rational principles of justice - Discuss with reference to Kant, Rawls. 7.4. The Basic structure Doctrine - that the limits are set by the basic structure of the constitution or the law itself; any legislation contrary to the basis structure is non-law (Ref: Kesavananda Case). 7.5. Define and discuss the basic legal concept of reasonableness with reference to Indian cases. State of MadrasV. V.G.Row(AIR 1952 SC 196). DwarakaPrasad Laxmi Narayan V. State of U.P. (AIR 1954 SC 224). Krishanchandra Arora V. Commissioner of Police (1961 3 SCR 135). Hardhan Shah V.State of West Bengal (1975 3SCC 198). AIR INDIA V.Nargesh Meerza (AIR 1987 SC 1829). Maneka Gandhi V. Union of India (19782 SCR 621).

UNIT-8 The functions of law. 8.1. Law as the upholder of the moral order in the society. 8.2. Concept of Dharma and connection between law and morality. 8.3. Law for bringing efficiency and social stability: the utilitarian views. 8.4. The differences between the ends of a legal order, a political order and a religious order. Are they inter changeable? Can one replace another? Issue concerning the dialectics of law. 8.5. Law as a means of social control. 8.6. Law as volksgeist.

## **PAPER :XXVIII**

### **PROPERTY LAW INCLUDING TRANSFER OF PROPERTY ACT AND EASEMENT ACT**

UNIT-1 Jurisprudential contours of property:

1.1. Concept and meaning of property - New property - Governmental Largesse. 1.2. Kinds of property - movable and immovable property - tangible and intangible property - intellectual property - copyright - patents and designs - trademarks. 1.3. Private and public property - natural resources as property - privatization of public property. 1.4. Capitalist and Socialist analysis of property - property in mean's of production. 1.5. Possession and ownership as man property relationship - finder of lost of goods. 1.6. Social functions of property.

## UNIT-2      LAW RELATING TO TRANSFER OF PROPERTY:

2.1. General principles of Transfer of property. 2.2, Specific Transfers: 2.2.1. Sale  
2.2.2. Mortgages: 2.2.2.1 Kinds of mortgages, simple mortgage. Mortgage by  
conditional sale - Distinguished from sale with a condition for repurchase.  
Usufructuary mortgage, English mortgage - Distinguished from mortgage by  
conditional sale. Mortgage by deposit of title deeds - when registration is  
necessary? Anomalous mortgage. 2.2.2.2. Systematic Constraints: When  
formalities are required. Formalities - effect of non registration - debt may be  
proved 2.2.2.3. Rights of Mortgagor. Right to redeem, Distinction between "due"  
and "Payable". Clog on redemption. Partial redemption. Accessions to mortgaged  
property and improvements. Mortgagor's power to lease. 2.2.2.4. Rights and  
liabilities of Mortgagees. Right to foreclose or sale. Right to sue for Mortgage  
money. Accession to mortgaged property. Rights of mortgages in possession. Sub-  
stituted security. 2.2.2.5. Liabilities of a mortgages in possession 2.2.2.6.  
Postponement of prior mortgage. 2.2.2.7. Marshalling and contribution 2.2.2.8.  
Who may sue for redemption 2.2.2.9. conventional subrogation - Legal  
subrogation - "Redeem up and foreclose down" 2.3. Security Interests immovable  
2.4. Charges 2.5. Leases 2.6. Exchange 2.7. Gifts 2.8. Actionable claims

## UNIT-3      Easements

3.1. Creation of easements 3.2. Nature and characteristics of easements. 3.3.  
Extinction of easements 3.4. Riparian rights 3.5. Licenses.

## UNIT-4      RECORDATION OF PROPERTY RIGHTS

4.1. Law relating to registration of documents affection proper relations -  
Exemptions of leases and mortgages in favour of Land Development Bank from  
registration. 4.2. Recordation of rights in agricultural land with special reference to  
property. 4.4. Law relating to stamp duties 4.4.1. of the liability of instruments to  
duty 4.4.2. Duties by whom payable 4.4.3. Effect of not duly stamping  
instruments: Examination impounding of instruments: Inadmissibility on  
evidence. Impounding of instruments. "

### **PAPER : XXIX**

## **ADMINISTRATIVE LAW**

### **UNIT I : EVOLUTION, NATURE AND SCOPE OF ADMINISTRATIVE LAW :**

1.1. From laissez faire to social welfare state -State as regulator of private interest-State as provider of services Other functions of modern state - relief, welfare 1.2. Evolution of administration as the fourth branch of Government - Necessity for delegation of powers of administration. 1.3. Evolution of agencies and procedures for settlement of disputes between individual and administration. 1.3.1. Regulatory agencies in the United States. 1.3.2. Conseil d Etat of France 1.3.3. Tribunalisation in England and India. 1.4. Relationship between Constitutional law and Administrative law Public Administration. 1.5. Separation of powers - to what extent relevant administrative functions. 1.6. Rule of law and Administrative law 1.7. Definitions of Administrative law 1.8. Scope of Administrative law 1.9. Emerging trends - positive duties of administration under the modern social welfare legislation and compulsions of planning.

### **UNIT-2 BUREAUCRACY IN INDIA:**

2.1. Nature and organization of civil service. Central and State.2.2. Its hierarchical character, accountability and responsiveness. 2.3. Powers and functions 2.4. Attainment of developmental and social welfare goals through Bureaucracy - Problems and perspectives 2.5. Class, character and structure 2.6. Administrative deviance - corruption, nepotism, maladministration. Disciplinary proceedings and prosecutions under prevention of Corruption Act.

### **UNIT-3 LEGISLATIVE POWERS OF ADMINISTRATION:**

3.1. Necessity for delegation of legislative power 3.2. Constitutionality of delegated legislation - power of exclusion and inclusion and power to modify statute 3.3. Requirements for the validity of delegated legislation 3.3.1. Consultation of affected interests and public participation in decision-making 3.3.2. publication of delegated legislation 3.4. Administrative directions, circulars and policy statements. 3.5. Legislative control of delegated legislation 3.5.1. Laying procedures and their efficacy. 3.5.2. Committees on delegated legislation - their constitution, function and effectiveness. 3.5.3. Hearings before legislative committees 3.6. Judicial control of delegated legislation - Doctrine of Ultra vires.

3.7. Sub-delegation of legislative powers.

#### UNIT-4 JUDICIAL POWERS OF ADMINISTRATION:

4.1 Need for devolution of adjudicatory authority on administration 4.2. Administrative tribunals and other adjudicating authorities their ad-hoc characters- Compare administration of Justice in Courts with that of Tribunals (Ref.Robson) 4.3. Nature of tribunals - Constitution, procedure, rules of evidence etc., with special reference to the following 4.3.1. Central Board of Customs and Excise 4.3.2. MRTP Commission 4.3.3. ESI Courts 4.3.4. Service Tribunals. 4.4. Jurisdiction of administrative tribunals and other authorities :Distinction between quasi-judicial and administrative functions and relevance of this distinction in the light of recent decisions of the Supreme Court 4.5. The right to hearing -Essentials of Hearing process, bias (No one can be a judge in his own cause) oral hearing etc., 4.6. Rules of evidence - no evidence, some evidence and substantial evidence rules. 6.7 Requirements regarding reasoned decisions 6.8. The right to counsel 4.9. Institutional decisions 4.10. Administrative Appeals 4.11. Council on Tribunals and Inquiries in England 4.12. U.S. Regulatory Agencies and Administrative procedures Act, 1946 4.13. Emerging Trends of Tribunalisation in India as means to relieve congestion in the courts and utilization of administrative expertise

#### UNIT-5 JUDICIAL CONTROL OF ADMINISTRATIVE ACTION:

5.1. Preliminary 5.1.1. Courts as the final authority to determine legality of administrative action-problems and perspectives. 5.1.2. Exhaustion of administrative remedies 5.1.3. - Standing. Standing for social action litigation 5.1.4. Laches 5.1.6. Res Judicata 5.2. Trends of Judicial Review: Scope of Judicial review 5.2.1. Jurisdictional errors/ultra vires 5.2.2. Abuse and non exercise of Jurisdiction 5.2.3. Error apparent on the face of the record 5.2.4. Violation of principles of natural justice 5.2.5. Violation of public policy 5.2.6. Primary jurisdiction 5.2.7. Absence of ripeness 5.2.8. Political questions 5.2.9. Doctrine of legitimate expectation 5.3. Methods of Judicial Review: 5.3.1. Statutory appeals 5.3.2. Certiorari 5.3.3. Mandamus 5.3.4. Prohibition 5.3.5. Quo-warranto 5.3.6. Habeas Corpus 5.3.8. Specific performance and civil suits for compensation 5.3.9. Fact-finding commissions.

#### Unit VI ADMINISTRATIVE DISCRETION:

6.1. Need for administrative discretion 6.2. Administrative discretion and rule of law 5.3. Mala fide exercise of discretion 6.4. Constitutional imperatives and use of discretionary authority 6.5. Irrelevant considerations 6.6. Non-exercise of discretionary power 6.7. Discretion to prosecute or to withdraw prosecution 6.3. Limiting, confining and structuring discretion - General discretion, technical discretion.

#### Unit VII LIABILITY FOR WRONGS (Tortious and contractual)

7.1. Tortious liability: sovereign and non-sovereign functions 7.2. Crown proceedings Act of U.K. and Torts claims of U.S. 7.3. Statutory immunity 7.4. Act of State 7.5. Contractual liability of government 7.6. Government privilege in legal proceedings - State secrets, public interest, etc., 7.7. Right to information and open Government 7.8. Estoppel and Waiver

#### Unit VIII CORPORATIONS AND PUBLIC UNDERTAKINGS

8.1. State Monopoly-Remedies against arbitrary action or for acting against public policy 8.2. Liability of public and private corporations of Departmental undertakings 8.3. Legal remedies 8.4. Accountability - Committee on public undertakings, Estimates Committee, etc.,

#### Unit IX INFORMAL METHODS OF SETTLEMENT OF DISPUTES AND GRIEVANCE REDRESSAL PROCEDURES:

9.1. Conciliation and mediation through social action groups 9.2. Use of Media, lobbying and public participation in policy making 9.3. Public inquiries and commissions of inquiry 9.4. Ombudsman, Parliamentary Commissioner 9.5. Lok pal, Lok Ayukta 9.6. Vigilance Commission 9.7. congressional parliamentary committees.

#### Unit X Right to Information Act

### **PAPER : XXX COMPANY LAW**

#### Unit I MEANING OF COMPANY- VARIOUS THEORIES OF CORPORATE

## PERSONALITY - CREATION AND EXTINCTION OF COMPANY

### Unit II FORMS OF CORPORATE AND NON-CORPORATE ORGANISATIONS:

2.1. Corporation, partnerships and other association of persons, state corporations, government companies, public sector; small scale, co-operative, corporate and joint sectors; foreign collaboration; their role. functions and accountability - companies and the rule of law, their civil and criminal liability; their essential characteristics.

### Unit III FORMATION OF A COMPANY :

3.1 Law relating to companies - Companies Act, 1956 3.1.2. Need of company for development. Formation of a company, registration and incorporation. 3.2. Memorandum of association- various clauses - alteration therein - binding force - its relation with articles of association- doctrine of constructive notice and indoor management - exceptions. 3.4. Prospectus-issue -contents - liability for misstatements - statement in lieu of prospectus 3.5. Promoters position - duties and liabilities.

### Unit IV SHAREHOLDERS AND DIRECTORS:

Shares - general principles of allotment its objects and effects - transfer of shares - restrictions on transfer - procedure for transfer refusal of transfer - role of public financial institutions relationship between transferor and transferee - issue of shares at premium and discount. 4.2. Shareholder - who can be 'and who cannot be a shareholder - modes of becoming a shareholder, calls on shares - forfeiture and surrender of shares -lien on shares rights and liabilities of a shareholder. 4.3. Share capital - kinds - alteration and reduction of share capital - further issue of capital conversion of loans and debentures into capital, duties of court to protect the interests of creditors and share holders. 4.4. Directors - position - appointment - qualifications, vacation of office - removal, resignation powers and duties of directors - meeting, registers, loans - remuneration of directors - role of nominee directors compensation for loss of office - managing directors and other managerial personnel.

### UNIT V DIVIDENDS, DEBENTURES, BORROWING POWERS:

5.1. Meetings - kinds - procedure - voting. 5.2. Dividends - payment -

capitalization of bonus shares - 5.31. Audit and accounts - 5.4. Borrowing - powers - effects of unauthorised borrowing - charges and mortgages loans to other companies - contracts by companies. 5.5. Debentures - meaning - floating charge - kinds of debentures - share holder and debenture holder - remedies of debenture holders 5.6. Protection of minority rights 5.7. Prevention of oppression and who can apply - when he apply powers of the court and of the Central Government.

#### Unit VI OTHER ALLIED ASPECTS:

6.1. Private Companies - nature - advantages - *conversion* into public company - foreign companies - Government companies, holding and subsidiary companies.

6.2. Investigations - powers. 6.3.Reconstruction and amalgamation. 6.4. Defunct companies.

#### Unit VII WINDING UP:

Winding up - types - by court - grounds - who can apply - procedure - powers of liquidator powers of Court - consequences of winding up order voluntary winding up by members and creditors - winding up subject to supervision of court - liability of past members - payment of liabilities - preferential payments - unclaimed dividends - winding up of unregistered company.

#### Unit VIII LAW AND MULTINATIONAL COMPANIES:

8.1.Collaboration agreements for technology transfer. 8.2. Control and regulation of foreign companies, taxation of foreign companies - share capital in such companies.

### **PAPER :XXXI INTERNATIONAL LAW**

#### Unit I STATES AS SUBJECTS OF INTERNATIONAL LAW :

1.1. Nature of International law. 1.2. Evolution of Nature of 'State' as a subject of International law. 1.3. Criteria of Statehood. 1.4. Distinction between State and



Government. 1.5. Recognition of 'States' and 'Governments'. 1.6. The notion of 'State succession'.

## Unit II STATES AS MAKERS OF INTERNATIONAL LAW

2.1. Custom-creation through state practice. 2.1 .1 . Concept of "State Practices" creative of "Custom".2.1.2. Types of 'Custom' 2.1.3. Proof of 'custom'.2.1.4. Place of customary international law in the evolution, and for the future of International law. 2.2. Treaties. 2.2.1. Concept of Treaties 2.2.2. Types of Treaties. (Bilateral/regional/multilateral: dispositive/non-dispositive: law-creating) 2.2.3. Authority to enter into treaties with special reference to India.2.2.4. Essentials of a Valid Interpretation. 2.2. International Adjudication, General Principles of 'Civilized Nations' and Juristic writing (publicists) as Acknowledged Subsidiary International Law Creating Acts. 2.4. The Resolutions of the General Assembly as Law Creating Acts. 2.5. The Status of Specialized United Nations Agencies. 2.6. The Role of International NGOS in International Law Creation.

## Unit III INDIVIDUALS, NON-STATE COMMUNITIES AND PEOPLES IN INTERNATIONAL LAW:

3.1. The Traditional Discourse Concerning Individual as a Subject and Object of International law. 3.2. The Basic Modification. Post charter, in the position of the Individual.

## Unit IV EQUITABLE RESOURCE UTILIZATION AND JUST WORLD ORDER:

4.1. The Traditional Concepts of State Jurisdiction. 4.2. The Reformulation of the Law of the Common Heritage of Mankind. 4.2.2. Territorial Waters. 4.2.3. Continental Shelf 4.2.4. Sea-bed and Ocean Floor. 4.2.5. Special problems of Antarctica. 4.3. The Law of Outer Space (The Moon Treaty, Geostationary objects in outer space, problems of Liability in the case of Hazards. The emerging law concerning Trans boundary pollution accidents (Chernobyl, Bhopal and Bhopal).

## Unit V INTERNATIONAL ECONOMIC LAW:

8.1. The IBRD, the IMF 8.2.The GATT 8.3. The UNCTAD-WTO.

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