SET Y

HIGH COURT OF SIKKIM

(Questions for Recruitment to the post in the cadre of Sikkim Judicial Service, 2022)

PAPER-I PROCEDURAL LAW

INSTRUCTIONS FOR THE CANDIDATES

1. Candidates are required to answer ten questions in all with at least one question from each group. Answers mentioning statutory provisions and case laws will be graded better.
2. Candidate is not required to state his/her name or roll number except at specifically prescribed places. Candidates shall not indicate any sign or any other thing of similar nature anywhere in the answer sheet which may indicate his/her identification. Candidate using additional answer sheets will also adhere to the instructions immediately provided hereinbefore.
3. No candidate is permitted to carry with him/her mobile phone, any electronic equipment capable of being used as a means of communication, any book, slip or writing in any form capable of being used in the examination.
4. Violation of these instructions will entail the cancellation of examination/expulsion.

Total Marks: 200 Duration of Time: 3 Hours

GROUP-A

LOCAL LAWS

1. Briefly discuss the provisions regarding the prohibition of transfer of land of non-agriculturist under The Sikkim Regulation of Transfer of Land Act, 2005? **(20)**

2. Write short notes on *any five* of the following under The Sikkim Anti Drugs Act, 2006 : - **(5x4)**

(a) Addict; (b) Commercial Quantity; (c) Consumer; (d) Illicit trafficking; Licensed dealers; (f) Peddler; (g) Conveyance; (h) Controlled substance .

3. State the punishments for contravening the provisions relating to controlled substances under The Sikkim Anti-Drugs Act, 2006? **(20)**

4. (a) Define Court Fees under The Sikkim Court Fees (Exemption and Miscellaneous Provisions) Act, 1983. **(10)**

(b) State the power of the High Court to make Rules as to the fees payable for serving processes etc. **(10)**

GROUP-B

CODE OF CIVIL PROCEDURE, 1908

5. (a) Narrate the prescribed mode of service of summons. **(10)**

(b) What do you understand by the terms 'Judgment' , 'Decree' and Order? How do you distinguish between them? **(10)**

6. Write short notes on *any four* of the following: - **(4x5)**

(i) Representative suit
(ii) Abatement
(iii) Discovery
(iv) Substituted service
(v) Res judicata
(vi) Temporary injunction
(vii) Mesne profit
(viii) Prescription

7. Write note on *any four*: - **(4x5)**

(i) Decree; (ii) Set-off; (iii) Summons; (iv) Written statement; (v) Counter-claim, (vi) Interpleader suit (vii) Sufficient cause; (viii) Plaint.

8. (a) What are the pre-conditions to be followed in institution of suits by or against the Government? **(10)**

(b) What is meant by 'Review'? Who can apply for review and on what grounds? **(10)**

GROUP- C

CODE OF CRIMINAL PROCEDURE, 1973.

9. (a) Point out the powers of the Magistrate to sentence imprisonment in default of fine. **(5)**

   (b) What is Revision? **(5)**

   (c) What is the value of the First Information Report and what is the effect of delay in lodging such report? **(5)**

   (d) What is meant by framing of charge? **(5)**

10. (a) State the circumstances where the police can arrest a person without warrant. **(10)**

    (b) Explain the term 'complaint' and discuss the procedure which is to be adopted by a Magistrate on receiving a complaint. **(10)**

11. (a) Explain the grounds for which an order of maintenance of wives, children and parents can be passed under section 125 of Code of Criminal Procedure, 1973. **(10)**

    (b) How will the order of maintenance be enforced? Explain with the help of decided cases. **(10)**

GROUP- D

INDIAN EVIDENCE ACT, 1872

12. (a) Critically discuss the value of oral evidence. **(10)**

    (b) Write notes on *any two* of the following: - **(2x5)**

    (i) Burden of proof; (ii) Hostile witness; (iii) Doctrine of Estoppel; (iv) Rule relating to exclusion of oral evidence by documentary evidence.

13. (a) What do you understand by the terms "Confession" and "Admission"? Is there any difference between the two? Can confession be admitted in evidence in a criminal trial. Give reasons for your answer. **(10)**

(b) What is 'dying declaration'? Discuss the principle of law for admissibility of dying declaration and the evidentiary value of the same. **(10)**

14. (a) Distinguish between 'onus probandi' and 'burden of proof'. Upon whom does 'burden of proof' lie? **(10)**

(b) What are the exceptions to the general rule relating to 'burden of proof'? **(10)**

15. (a) Explain and illustrate the expressions 'may presume', 'shall presume' and 'conclusive proof'. **(10)**

(b) Distinguish between 'examination-in-chief' and 'cross-examination'. **(5)**

(c) Discuss the evidential value of secondary evidence with suitable examples. **(5)**

GROUP – E

LIMITATION ACT, 1963

16. (a) "The law of limitation only bars the remedy but does not extinguish the right". Discuss mentioning exceptions, if any, to this general principle. **(10)**

(b) Discuss the grounds of fraud and mistake as referred to in the Limitation Act, 1963, for extension of the period of limitation. **(10)**

17. (a) When even after the period of limitation as prescribed under the Limitation Act, 1963, may the Court allow an application to be filed before it? Give reasons for your answer. **(10)**

(b) What are the differences between the 'law of limitation' and the 'law of prescription'? **(10)**

GROUP – F

LANGUAGE TEST

18. Translate into Nepali the following passage extracted from (2022:SHC:94).

(20)

While considering the aspect of arbitrariness and what it entails, it may be explained that arbitrary action is one that is irrational and not based on sound reason. If an administrative or policy decision is taken without considering the relevant facts it would be termed as an arbitrary decision and violative of the mandate of Article 14 of the Constitution. Thus, arbitrariness is contrary to rule of law, equity, fair play and justice. The relaxation clause provided in the Rules (*supra*) cannot be invoked to benefit one person while discriminating against another similarly situated with the beneficiary, sans rationality. The concept of equality before law means that among equals law should be equal and should be equally administered and likes should be treated alike. At the same time, the fact that the principle of equality does not prevent the State from making a classification on the basis of natural distinctions relevant to the particular subject to be dealt with must be borne in mind. So long as the classification is based on a natural basis and so long as all the persons falling in the same class are treated alike, there can be no question of violating the equality clause. If an action is assailed as being violative of Article 14, it is necessary to ascertain the policy underlying the Statute and the object intended to be achieved by it, having done so the dual test has to be applied, whether the classification is rational and based upon intelligible differentia which distinguished persons or things that are grouped together from others and that are left out of the group and whether the basis of differentiation has any rational nexus or relation with its avowed policy and objects. These objectives are lacking in the action of R1.

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SET Z 1

HIGH COURT OF SIKKIM

(Questions for Recruitment to the post in the cadre of Sikkim Judicial Service, 2022)

PAPER-II SUBSTANTIVE LAW

INSTRUCTIONS FOR THE CANDIDATES

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Total Marks: 200 Duration of Time: 3 Hours

GROUP-A

HINDU LAW

1. Write notes on *any four* of the following: - **(4x5)**
   (a) Nullity of marriages;
   (b) Bars to Matrimonial Relief;
   (c) Wife's special ground for divorce;

(d) Custody of children;

(e) Stridhan;

(f) Sapinda relationship.

2. (a) State and explain briefly the circumstances under which a Hindu wife can stay separate from her husband without forfeiting her right to maintenance from her husband, according to the provisions of Hindu Adoption and Maintenance Act, 1956. **(10)**

(b) Discuss 'cruelty' and 'conversion to another religion' as grounds of divorce under the Hindu Marriage Act, 1955. **(10)**

3. (a) Discuss the various sources of Hindu Law. **(10)**

(b) What are the conditions for a valid marriage to be solemnised between any two Hindus? **(10)**

GROUP-B

INDIAN CONTRACT ACT, 1872

4. (a) Discuss the position of minors as per the Law of Contract. **(10)**

(b) Write short notes on any two of the following: - **(2x5)**

(i) The doctrine of restitution;

(ii) Contingent contract;

(iii) Communication of acceptance and revocation of proposals;

(iv) Liquidated damages;

5. (a) Under what circumstances is an agent personally liable for the contracts entered into by him on behalf of his principal? Discuss with illustrations. **(10)**

(b) When is time deemed to be the essence of a contract in the performance of a contract and with what consequences? **(10)**

GROUP- C

SALE OF GOODS ACT, 1930

6. (a) What are the differences between advanced deposit and earnest money? **(5)**

(b) Define the duties of seller and buyer and the effecting of part delivery under the provisions of the Sale of Goods Act, 1930. **(5)**

(c) Discuss buyer's right of examining the goods. **(5)**

(d) Is a buyer bound to return the rejected goods? **(5)**

7. (a) Discuss the following in terms of the provisions of the Sale of Goods Act, 1930 (*any two*): - **(2x5)**

(i) Contract of sale how made;

(ii) Goods perishing before sale but after agreement to sale;

(iii) Sale by sample;

(iv) Implied undertaking as to title, etc.;

(b) What are the provisions of the Sale of Goods Act, 1930, relating to implied conditions as to quality or fitness for any particular purpose of goods? **(10)**

GROUP- D

THE PARTNERSHIP ACT, 1932

8. (a) What is the partnership at will? **(5)**

(b) What are the general duties of partners? **(5)**

(c) Distinguish between the following (*any two*): - **(2x5)**

(i) Partnership and Co-ownership;

(ii) Partnership and Joint family;

(iii) Partnership and Company;

9. (a) What is meant by the following: - **(2x5)**

(i) Sleeping partner;

(ii) Particular partnership.

(b) Distinguish between Partnership and Joint Hindu Family business. **(10)**

GROUP – E

SPECIFIC RELIEF ACT, 1963

10. (a) When may rescission be adjudged or refused under Section 27 of the Specific Relief Act, 1963? **(10)**

(b) When would the Court grant a decree for specific performance and when may it refuse to grant the same? **(10)**

11. (a) Who may obtain specific performance according to the provisions of the Specific Relief Act, 1963? **(15)**

(b) Discuss the principle of privity of contract. **(5)**

GROUP – F

GENERAL CLAUSES ACT, 1897

12. (a) Define the following according to the provisions of the General Clauses Act, 1897 (*any four*). **(4x3)**

(i)Affidavit; (ii) Central Act; (iii) Immovable property;

(iv) Magistrate; (v) Provincial Act; (vi) Official Gazette;

(vii) Oath; (viii) Local Authority.

(b) According to the General Clauses Act, 1897, what is meant by "State Act" and "State Government"? **(8)**

13. (a) What are the provisions of the General Clauses Act, 1897 relating to construction of references to repealed enactments and computation of time? Discuss in details. **(10)**

(b) What are the provisions of the General Clauses Act, 1897, applicable relating to making of rules or bye-laws after previous publication? **(10)**

GROUP – G

TRANSFER OF PROPERTY ACT, 1882

14. (a) Distinguish between condition precedent and condition subsequent. **(10)**

(b) Explain the term 'mortgage'. Distinguish between sale and mortgage. **(10)**

15. (a) State the definition of 'Notice' as given under the Transfer of Property Act, 1882, mentioning three principles enunciated in the Explanations to the said definition. **(15)**

(b) What is meant by 'fraudulent transfer'? **(5)**

GROUP – H

INDIAN PENAL CODE, 1860

16. (a) Point out the difference between 'common intention' and 'common object' appearing in Sections 34 and 149 of the Indian Penal Code, 1860. **(10)**

(b) What is "dowry death"? **(5)**

(c) State the provisions introduced in the Indian Penal Code, 1860 to combat the manners of "dowry death". **(5)**

17. (a) Write a note on insanity as defence under the Indian Penal Code, 1860, with reference to land-mark judicial decisions. **(10)**

(b) Critically discuss the law of consent as defence with reference to rape cases. **(10)**

GROUP – I

CONSTITUTIONAL LAW OF INDIA

18. (a) Discuss the purposes for which the power to issue writs as provided under Article 226 of the Constitution of India may be exercised by the High Court? **(10)**

(b) What do you understand by the expression "equality before law" and "equal protection of laws" as enshrined in Article 14 of the Constitution of India" **(10)**

19. (a) Explain fully, with reference to leading cases, the constitutional guarantee of protection of life and personal liberty under the Constitution of India. **(15)**

(b) Write a short note on the 'doctrine of double jeopardy' **(5)**

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