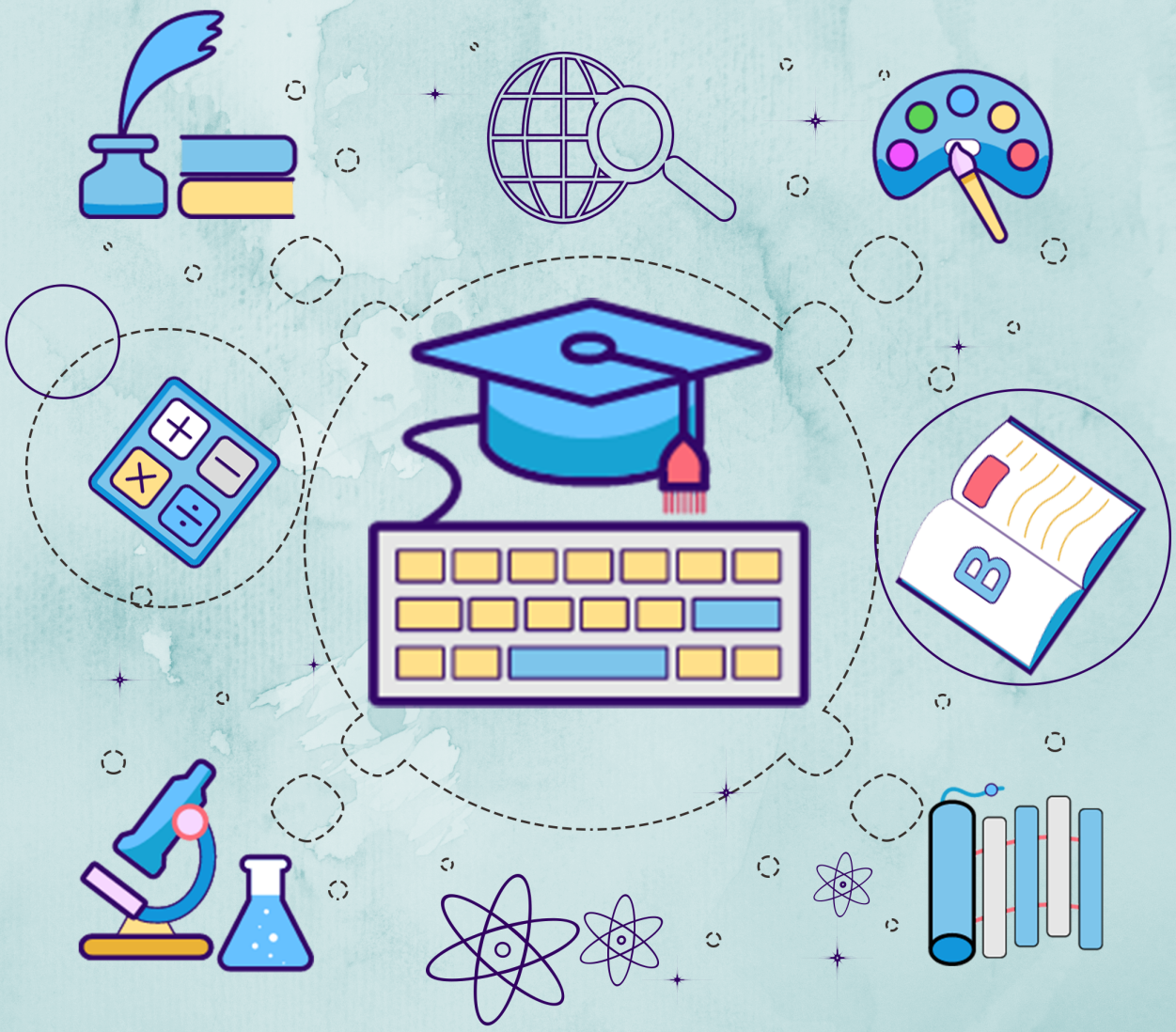
APJ ABDUL KALAM TECHNOLOGICAL UNIVERSITY

KeralaNotes



SYLLABUS | STUDY MATERIALS | TEXTBOOK PDF | SOLVED QUESTION PAPERS

www.keralanotes.com

KeralaNotes

KTU S3/S4

CONSTITUTION OF INDIA (MCN 202)

QUESTION BANK

Related Link :

- KTU S4 CSE NOTES 2019 SCHEME
- KTU S4 SYLLABUS CSE COMPUTER SCIENCE
- KTU PREVIOUS QUESTION BANK S4 CSE SOLVED
- KTU CSE TEXTBOOKS S4 B.TECH PDF DOWNLOAD
- KTU S4 CSE NOTES | SYLLABUS | QBANK | TEXTBOOKS DOWNLOAD

www.keralanotes.com

MODULE 3

The Union executive, the President, the vice President, the council of ministers, the Prime minister, Attorney-General, functions

The parliament, composition, Rajya sabha, Lok sabha, qualification and disqualification of membership, functions of parliament.

Union judiciary, the supreme court, jurisdiction, appeal by special leave

What are the qualifications for the office of the Vice-President?

1. He must be a citizen of India.
2. He must not be less than 35 years of age.
3. He must possess all those qualifications which can entitle him to become a member of the Rajya Sabha.
4. He must not hold any office of Profit in Union or State Government.
5. He must not be a member of either house of Parliament or any state legislature. In case he is a Member of Parliament or State legislature, he must resign his membership before assuming the office.

What are the powers and functions of the Prime Minister?

There has to be a Council of Ministers headed by the Prime Minister to aid and advise the President in the exercise of his powers. The task of the formation of the ministry begins with the appointment of the Prime Minister by the President. After this, the President appoints all other ministers on the advice of the Prime Minister. He is free to determine the strength of his ministry and also select the ministers as per his choice. The powers and functions are

Allocation of Portfolios

It is an undisputed privilege of the P M to allocate portfolios to his ministers, which particular department shall be entrusted to which minister is determined by him. The Prime Minister has the power to shuffle his ministry.

Chairman of the Cabinet

The Prime Minister is the leader of the Cabinet. He presides over the meetings. He decides the agenda of the meeting. In fact all matters are discussed in Cabinet with the approval and consent of the Prime Minister. The Ministers have to accept his leadership. In all cases of disagreement with him, they have to quit. The Prime Minister can demand resignation from any minister any time.

Chief Link between the President and the Cabinet

The Prime Minister is the main channel of communication between the President and the Cabinet. He communicates to the President all decisions arrived at in the Cabinet and puts before the Cabinet the views of the President.

Chief Co-ordinator

The Prime Minister acts as the Chief Co-ordinator of the government. It is his responsibility to co-ordinate the activities of all the departments and to secure co-operation amongst all departments. He exercises a general supervision on individual ministers and ensures smooth working of departments. He removes the differences if any, among the ministers and ensures the working of each ministry without coming into conflict and clash with other ministers.

Leader of the Parliament

The Prime Minister, as the leader of the Lok Sabha, is also the leader of the Parliament. In the capacity as the leader of the majority party it is he who decides, in consultation with the Speaker, the complete agenda of the house. The summoning and proroguing of the house is decided upon by him. He can address each house of the Parliament but can vote only in the house to which he belongs. The Prime Minister has the most effective power to ask for dissolution of the Lok Sabha.

Determines the Foreign Policy

As the Powerful and real head of the government, the Prime Minster always plays a key role in determining the foreign policy of the country and India's relation with other countries. He is the mainly responsible for country's prestige and participation in international relations. He represents the country in all important international conferences.

Role in Economic Planning

Prime Minister is the main spirit behind all economic planning. He plays a leading role in all fiscal and developmental planning. Prime Minister is the ex-officio chairman of the Planning Commission. He plays a leadership role at the national level and leads the country both times of peace and war.

Explain the powers of the President to suspend the fundamental rights during emergency.

The President can declare emergency in a country when there is a war, external aggression or armed rebellion, failure of constitutional machinery in a state or financial emergency. During the time of emergency, the central have the right to take full legislative and executive control of any state and can also suspend the fundamental rights of the citizen.

There are three kinds of emergencies:

I. National Emergency (Art. 352)
II. State Emergency (Art. 356)
III. Financial Emergency (Art. 360)

National Emergency

The President can declare emergency in a country when there is a war, external aggression or armed rebellion. During the time of emergency, the central have the right to take full legislative and executive control of any state and can also suspend the fundamental rights of the citizen. The President can declare such an emergency when he gets a written request from the Council of ministers headed by the Prime Minister. The proclamation must be approved by both the houses of the Parliament with an absolute

keralanotes.com

majority of total members of the houses and there has to be 2/3rd majority of the members present

State Emergency

Art 356 of the Constitution of India expressly states that if, the President is satisfied by the report of the Governor of a state that the state is unable to function according to the constitution, then the President can assume to himself all or any of the powers and functions vested in the government of the state or any authority of the state except the legislature of the state. The power of the legislature of the state is given to the Parliament. The proclamation must be presented to both the houses and it must be approved by both the houses within two months to bring state emergency into force.

Financial Emergency

Art 360 of the Constitution of India says that if the president is satisfied that there is a situation in India where the financial security has been threatened; he may call for a financial emergency. During financial emergency the executive and legislative powers will go in the hands of the centre. Financial emergency must be approved by the Parliament within two months. During financial emergency, the President can reduce the salaries of all government officials, including judges of the Supreme Court and High Court. All money bills passed by the State legislatures are submitted to the President for his approval. He can direct the state to observe certain principles relating to financial matters but fundamental rights cannot be suspended during financial emergency.

Explain the role of attorney general in Indian constitution.

The Attorney General is the chief legal adviser of Government of India. The Attorney General of India is appointed by the President under Article 76 of Indian Constitution. Attorney General is said to be the lawyer from the government side. The person to be appointed as Attorney General must be qualified to be a judge of Supreme Court. He acts

- As a Chief Legal adviser of the government Attorney General of India has to give the advice to the government of India upon such legal matters which assigned to him by the President.
- As lawyer from the government side Attorney general is required to appear on behalf of the government of India in the Supreme Court in which the government of India is concerned.
- He may also be required to appear in any High Court on behalf of the government of India which the Government of India is concerned.
- In the performance of his duties, the Attorney general of India has right to audience in any Court in the territory of India.
- The Attorney General of India has right to speak and take a part in the proceeding of any house of Parliament, without the right to give vote (Article 88). The Attorney General of India is entitled to get all the immunities and privileges as a Member of Parliament.

What are the effects of emergency?

Effects of National Emergency

The declaration of National Emergency has effects both on the rights of individuals and the autonomy of the states in the following manner :

The most significant effect is that the federal form of the Constitution changes into unitary. The authority of the Centre increases and the Parliament assumes the power to make laws for the entire country or any part thereof, even in respect of subjects mentioned in the State List.

The President of India can issue directions to the states as to the manner in which the executive power of the states is to be exercised.

During this period, the Lok Sabha can extend tenure by a period of 1 year at a time. But the same can't be extended beyond 6 months after the proclamation ceases to operate. The tenure of State Assemblies can also be extended in the same manner.

During emergency, the President is empowered to modify the provisions regarding distribution of revenues between the Union and the States.

The Fundamental Rights under Article 19 are automatically suspended and this suspension continues till the end of the emergency.

But according to the 44th Amendment, Freedoms listed in Article 19 can be suspended only in case of proclamation on the ground of war or external aggression. From the above discussion, it becomes quite clear that emergency not only suspends the autonomy of the States but also converts the federal structure of India into a unitary one. Still it is considered necessary as it equips the Union Government with vast powers to cope up with the abnormal situations.

Effects of State Emergency

The declaration of emergency due to the breakdown of Constitutional machinery in a State has the following effects:

The President can assume to himself all or any of the functions of the State Government or he may vest all or any of those functions with the Governor or any other executive authority.

The President may dissolve the State Legislative Assembly or put it under suspension. He may authorise the Parliament to make laws on behalf of the State Legislature.

keralanotes.com

The President can make any other incidental or consequential provision necessary to give effect to the object of proclamation.
The Fundamental Rights under Article 19 are automatically suspended and this suspension continues till the end of the emergency.

Effects of Financial Emergency

The proclamation of Financial Emergency may have the following consequences:

The Union Government may give direction to any of the States regarding financial matters.
The President may ask the States to reduce the salaries and allowances of all or any class of persons in government service.
The President may ask the States to reserve all the money bills for the consideration of the Parliament after they have been passed by the State Legislature.
The President may also give directions for the reduction of salaries and allowances of the Central Government employees including the Judges of the Supreme Court and the High Courts.
So far, fortunately, financial emergency has never been proclaimed.

Explain Judicial Review
The power of Constitutional Review has been within the Supreme Court and High Court through the Constitution itself. Also, the Supreme Court of India has declared the Judicial Review power as a basic structure of the Constitution which cannot be taken away even by way of Constitutional Amendment. If during the Judicial Review, any legislative enactment or executive order of either State Government or Central Government is found to be in violation of the Constitution it will be declared as invalid.
Types of Judicial Review in India
- Judicial Review of constitutional amendments.
- Judicial Review of legislation of the Parliament and state legislatures and subordinate legislation.
- Judicial Review of administrative action of the Union and the State and authorities under the State.

Importance of Judicial Review in India
Judicial Review helps in maintaining the supremacy of the Constitution.
Federal Equilibrium that is the distribution of power between the Centre and the States is maintained.
Fundamental Rights of the Citizens are protected.
Judgements in various cases propounding the essence of Judicial Review:

What is PIL?

Public interest Litigation (PIL) means litigation filed in a court of law, for the protection of "Public Interest", such as Pollution, Terrorism, Road safety, Constructional hazards etc. Any matter where the interest of public at large is affected can be redressed by filing a Public Interest Litigation in a court of law.
Public interest litigation is the power given to the public by courts through judicial activism. However, the person filing the petition must prove to the satisfaction of the court that the petition is being filed for a public interest and not just as a frivolous litigation by a busy body.
The court can itself take cognizance of the matter and proceed suo motu or cases can commence on the petition of any public spirited individual.
Some of the matters which are entertained under PIL are:
- Neglected Children
- Violation of basic human rights of the poor
- Content or conduct of government policy
- Atrocities on women
- Environmental pollution and disturbance of ecological balance
- Non-payment of minimum wages to workers and exploitation of casual workers
- Maintenance of heritage and culture

Explain SPL-Special leave petition
SLP (Special Leave Petition) means the aggrieved party takes special permission to be heard in Supreme Court against the judgment given by the appeals court generally Supreme Court and sometimes Tribunals. However, the Special Leave Petition isn't an appeal but a petition filed for an appeal. It's up to the Supreme Court to grant the petition to be heard if it deems fit to be heard. If the permission is granted then the Special Leave Petition is automatically converted into an appealing matter. Hence, it is often said that the Supreme Court grants the "Leave" and convert the petition into "Appeal".
The appeal is often made where a gross injustice has been made or a considerable question of law has been observed.
The judgment, decree or order against which the appeal is being made must have the face of judicial arbitration. This suggests that purely administrative or executive order or ruling can't be a matter of the appeal. Furthermore, it's important that the authority whose judgment or order is being appealed against SLP must fall into the definition of a court or a tribunal. Therefore, it's the duty of the client to see before applying for SLP.
The Supreme Court cares regarding the law applied within the judgment or order or decree given by the Supreme Court or if it fails to offer a certificate of fitness for the interest be heard in the Supreme Court.
Mere errors of fact, mis-appreciation of evidence, or even findings of fact received wrongly aren't grounds

keralanotes.com

of appeal before the Supreme Court. The Supreme Court is merely concerned with the question of law, if the law was correctly applied, whether the interpretation of the law was in accordance with the settled principles of law.

Article 136 of the Indian Constitution features special instructions stating that the Special Leave Petition shall not apply to the judgment or decree or order with regard to the soldiers. it's the sole exception in Special Leave Petition given in Clause 2 of Article 136 of Constitution of India, 1950.

Special Leave Petition is often filed against any judgment of the Supreme Court or the other inferior court within 90 days from the date of judgment, or it is often filed within 60 days against the order of a supreme court refusing to grant the certificate of fitness for appeal to Supreme Court

keralanotes.com